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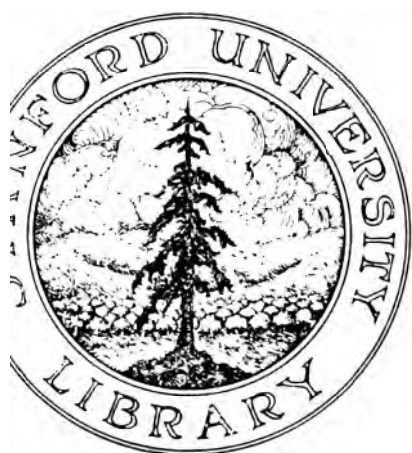
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# GAIUS VERRES;

## AN HISTORICAL STUDY

A THESIS

PRESENTED TO THE FACULTY OF THE GRADUATE SCHOOL

OF

CORNELL UNIVERSITY

IN PARTIAL FULFILMENT OF THE REQUIREMENTS

FOR THE DEGREE OF

DOCTOR OF PHILOSOPHY

BY

FRANK HEWITT COWLES, PH.D.

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## PREFACE.

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Up to the present time there has been no systematic attempt to present in complete form the sum total of the evidence covered by the Verrine indictment. Drumann (*Geschichte Roms* V, pp. 263-328) and Holm (*Geschichte Siciliens*, III, pp. 127-190) have covered the field most adequately, and by their work I have largely profited. But their treatment, together with that found in the numerous Lives of Cicero, is more or less summary, and is always subsidiary to the larger themes in connection with which they are found.

In view of the great historical importance of the Verrine series, there would seem to be a field for a complete statement of the facts, as far as they can be ascertained, with the additional aim of representing the present state of scholarship on this subject, and of shedding such additional light upon certain phases of it, as may seem possible. My treatment of the *De Signis*, particularly of the question of the relative merits of Cicero and Verres as connoisseurs, will be found to be new and, I hope, convincing. I have also endeavored to sift carefully the evidence for the chronology of the year 70 B.C., in the light of the work of previous commentators upon that subject, and to formulate the events of that year, insofar as they pertain to the trial of Verres, in a way that seems most satisfactorily to fit the facts which Cicero has given us.

I have based my work mainly upon the text of Müller (Teubner, Leipzig, 1894). Such departures as I have taken from Müller are fully explained in the notes. I have cited uniformly by section rather than by chapter.

I wish herewith to express my sincere gratitude and appreciation to my teacher, Professor Charles E. Bennett, at whose suggestion this study was undertaken, and who has given the manuscript the benefit of searching and careful criticism. Whatever merit may be found in the work is largely due to the inspiration received from his scholarly instruction and example.

F. H. C.

*Ithaca, May, 1917.*



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# GAIUS VERRES; AN HISTORICAL STUDY.

## CHAPTER I.

THE EARLY CAREER OF VERRES (B. C. 114-85); QUAESTOR  
UNDER CARBO (B. C. 84-82); LEGATUS AND PROQUAESTOR  
UNDER DOLABELLA (B. C. 80-78).

In the year 70 B. C. Cicero, then thirty-six years of age, was confronted with the greatest task upon which he had so far been called to exercise his legal talents. This was the accusation brought in the court of *Repetundae* by the Sicilians against Gaius Verres, their former governor, in which they charged him with a systematic and ruthless spoliation of the province during the course of the previous three years. The chief record of the Verrine impeachment, and almost the only source of our knowledge of the life of the defendant, is the series of seven speeches which Cicero prepared as prosecutor in the great case. In any attempt to reconstruct a biography of Verres, it is, of course, necessary to exercise caution against accepting literally every statement which appears in the indictment. Scholars have long realized that in view of the notorious license of ancient invective in general and of Cicero's tendency to rhetorical exaggeration in particular, the facts could only be gathered from the Verrine orations by stripping off the verbiage with which they are encumbered, and by a careful weighing of the evidence thus presented. No thinking reader would form his final estimate of a defendant, however guilty, solely from the testimony of the prosecuting attorney.

Of the family, name, and early life of Gaius Verres little can be ascertained. We are informed that his father, Gaius Verres, was of senatorial rank,<sup>1</sup> and he is described by Cicero as a briber and corruptionist, though he evidently lacked the recklessness

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<sup>1</sup> Pseudo-Asconius, Arg. Divinatio, p. 185 (Stangl); Verr. Act. I, 23, 25; II, 95, 97, 98.

of his son. Becoming alarmed at the threatening consequences of the first two years of the younger Verres's maladministration of Sicily (B. C. 73-71), he addressed the senate, requesting clemency for the governor. Even during the first year, the father had sent messengers to Sicily to warn his son against further excesses, not on the principle that the pillage of the island was wrong, but that it was becoming dangerous.<sup>1</sup> That he was a sharer in the booty, appears from his use of some of it in the attempt to defeat Cicero for the office of aedile in the elections of the year 70. He died before the son was brought to trial.<sup>2</sup>

The gentile name of Verres is nowhere mentioned. It is possible that the name itself is that of a *gens*.<sup>3</sup> There was evidently a family connection with the Metelli, probably distant. Lucius

<sup>1</sup> IV, 41.

<sup>2</sup> I, 60

<sup>3</sup> Cf. IV, 57; II, 190. Various conjectures on this subject have been made. It has been thought possible that the father of Verres was one of the three hundred *equites* whom Sulla elevated to the senate and called *Cornelii* after himself. (Appian, *Bellum Civile* I, 100, 468). This would make Verres a member of the Cornelian *gens*. But the conjecture is unsupported by any further evidence. Ritschl believes that the name Verres is really only an old form of the name Verrius, a conclusion which is strengthened by the so-called "*Lex Verria*" (III, 117), a form which the adjective would regularly take, if derived from Verrius rather than from Verres. Mommsen explains the name as an instance of a *cognomen* become a *nomen*. (*Römische Forschungen* I, p. 51). The latest explanation of the form of the name is that of W. Schulze (*Zur Geschichte Lateinischer Eigennamen*, Berlin, 1904 p. 287), who follows Ritschl in regarding it as another form of the true Lat. Verrius. The form Verres he regards as Etruscan, upon the analogy Menates and Menatius, which are authentic. It is only necessary to suppose that Verres's family came originally from Etruria or from somewhere within the sphere of Etruscan influence. Ciccotti (*Il Processo di Verre*, p. 8) enumerates all the above possibilities of the origin of the name, but adds none to the exclusion of the others.

The name is perhaps a genuine Italian one of the kind mentioned Varro (*Rerum Rust.* II, 1, 10), who, in arguing for the pastoral origin of the Roman people, cites the numerous well known names evidently derived from objects, circumstances, and especially animals, familiar to an agricultural community,—names such as Porcius, Ovinus, Caprilus, Equus, Taurus, Scrofa, Asinius, etc. Verres then, would be derived from the common noun, *verres*, a male swine, a boar, and if so is quite closely analogous to Scrofa, from *scrofa*, a sow.

Metellus, Verres's successor in Sicily, admitted the connection,<sup>1</sup> but Cicero's statement that he "became on a sudden not only the friend of Verres, but also his relative"<sup>2</sup>, seems to indicate that the relationship was at least not a close one.

The single reference to the mother of Verres<sup>3</sup> alludes respectfully to her family and name, but gives no details concerning them. Cicero ironically remarks that the governor's birth, education, and constitution of mind and body would seem to fit him rather to be a mere porter of statues than an appropriator of them as works of art, but this statement is found in a passage questioning the defendant's right to be regarded as a connoisseur,<sup>4</sup> and probably has little direct bearing upon the question of his family connections. On the contrary, if Verres had been of low or servile origin, it is hardly possible that Cicero would have overlooked the opportunity to enlarge upon the fact. Of his family we know only that his wife, Vettia, a sister of Lucius

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The acute prosecutor was not slow to take advantage of the unfortunate connotation of the defendant's name, and on numerous occasions he raised a laugh at Verres's expense by sarcastic puns on it, characterizing the governor's peculiar brand of justice as *jus Verrinum* (I, 121; Cf. II, 52), a phrase which would inevitably suggest "pork broth" to the reader. In the same connection he mentions the popular execration of *Sacerdos*, Verres's predecessor in Sicily, for sparing so worthless a *boar*, here a double pun. Likewise when Q. Caecilius, the son of a freedman, said to be given to Jewish practices, would have set aside the Sicilians and have undertaken the prosecution of Verres himself, Cicero asked, "What has a Jew to do with swine?" (Plutarch; Cicero VII). When Verres first went to the province, men augured in a jesting way from his name, and concluded that he would "sweep it clean." This has its point in the resemblance of the name to the verb, *verrere*, to sweep or scour (II, 18, 19). Cf. IV. 53, where occurs a rather forced pun on *everriculum*, a drag-net.

That the name was not among the most common is attested by the fact that it occurs only four times in the Corpus Inscriptionum Latinarum. (I, 1150; VI, 8846; XII, 1183, 3671).

<sup>1</sup> II, 64.

<sup>2</sup> II, 138.

<sup>3</sup> I, 128.

<sup>4</sup> IV, 126. Verres was probably Cicero's superior in knowledge of art and the capacity to appreciate it, and the orator's sneers at his "pretensions" are not convincing. (See Chapter V.)



Vettius Chilo of the equestrian order,<sup>1</sup> bore him a daughter and a son. This daughter's husband was with the governor a year in Sicily.<sup>2</sup> His son also accompanied him thither, though only a youth not yet in the *toga virilis*.<sup>3</sup> Growing up in an atmosphere of vice, corruption, and luxury, the son could only have become a copy of his father.<sup>4</sup> Plutarch states that when Verres in the course of the trial began to reproach Cicero with effeminate living, the latter retorted, "You ought to use this language at home to your son."<sup>5</sup>

The year of Verres's birth was not later than 114 B. C. According to the *Lex Villia Annalis* of 180 B. C., a citizen might normally fill the quaestorship in his twenty-eighth year, the praetorship in his fortieth. Verres became quaestor in the year 84, but did not reach the praetorship until 74, which would indicate the year 114 as the latest possible date for his birth. The prosecutor has hinted that his youth was dissolute, spent in fitting preparation for a later life full of excesses.<sup>6</sup> The advantages of noble birth, high rank, and financial ease probably contributed their share to the outstanding faults which Cicero so mercilessly exposes. It may safely be asserted, however, that in his early years Verres was not merely an ease-loving voluptuary. For during those years a liberal education must have laid the foundations for the remarkable taste and love for the artistic which later prompted him to the seizure of the finest works of art in Sicily. There was doubtless much to stain the record of his youth. But the same could probably be said of the majority of the young aristocrats of the later Republic.

Verres's official career began with his election to the office of quaestor. He was stationed with the army of the consul Cn. Papirius Carbo in the Gallic province. Cicero sets the quaestorship

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<sup>1</sup> III, 168.

<sup>2</sup> Ps. Ascon. Arg. Div., p. 185 (Stangl); II, 49.

<sup>3</sup> Ps. Ascon., l. c.; III, 23, 159.

<sup>4</sup> I, 32; III, 159-162.

<sup>5</sup> Plutarch, Cic. VII.

<sup>6</sup> I, 32, 33; III, 159-162.

fourteen years previous to the trial,<sup>1</sup> which would make the date 84 B.C. Carbo's third consulship, when he turned to Cisalpine Gaul through fear of Sulla, was in the year 82, and it has been correctly concluded<sup>2</sup> that Verres held the quaestorship continuously from 84 to 82. Verres had up to this time belonged to the Marian faction;<sup>3</sup> now in the face of its waning fortunes, with an eye to the future, he prepared to avail himself of the opportunity presented under the rising star of Sulla. But he had not yet exhausted all the possibilities of his previous allegiance. Carbo had treated him with much consideration,<sup>4</sup> possibly in the hope of preventing his defection to the opposing party. Verres's accounts of his quaestorship showed that he had received from the state treasury the sum of 2,235,417 sesterces for the army.<sup>5</sup> Taking this into Cisalpine Gaul, he paid "to the soldiers, for grain, to the lieutenants, the proquaestor, the praetorian cohort," 1,635,417 sesterces. The balance he summarily disposed of in the statement, "I left at Ariminum 600,000 sesterces." No statement was ever rendered to show who had received the money. Cicero intimates that Ariminum was named as the place, because at the time when Verres was giving in his accounts, it had been betrayed to Sulla by Albinovanus, Marius's lieutenant, and had been taken and plundered, although numbers of the inhabitants of the town were left after the disaster and were employed by Cicero as witnesses during his prosecution of the defendant.<sup>6</sup> Of course the embezzlement was never legally proved, but we know of no denial of the charge. The prosecutor established a reasonable probability, and suspicion will always attach to the record of Verres's

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<sup>1</sup> I, 34.

<sup>2</sup> See E. Ciccotti, *Nota cronologica sulla questura di C. Verre*, Riv. di fil. clas., XXIII, pp. 332-340; *Il Processo di Verre*, p. 84. Cf. Drumann, (*Geschichte Roms*, V, p. 266), who insists that Cicero was simply mistaken in the date, and himself places the quaestorship in the year 82.

<sup>3</sup> Schol. Gronovius in Act. I, p. 329 (Stangl).

<sup>4</sup> I, 34.

<sup>5</sup> I, 36

<sup>6</sup> Ibid.

quaestorship under Carbo.<sup>1</sup> It is probable that the disfavor in which the name of the ex-consul, as a Marian, was held at the time of the trial, was counted upon by Verres to excuse, in the eyes of the senators who judged him, this defection from his sworn duty as a consul's quaestor. But Cicero emphatically denies that Sulla ever received the money or any part of it, and in the light of later events, we may conclude that the prosecutor was right. It seems probable that to Verres no more weighty consideration than the opportunity of enriching himself was necessary to change his political convictions.

His prestige with Sulla was not at first very great. For that astute judge of men, putting no particular trust in the late Marian adherent, ordered him to stay at Beneventum<sup>2</sup> during the remainder of the war, where he could be closely watched by Sullans of unquestioned sincerity, and where his influence on either side would be negligible. Afterwards, finding no cause for suspecting his new follower, Sulla rewarded him by allowing him a share in the confiscated estates of citizens who had been proscribed in the vicinity of Beneventum. Cicero implies<sup>3</sup> that Verres took an active part in the proscriptions of the dictator, in the statement that he intends to pass over the horrors of proscription as common to the times and not peculiar to the defendant: "I will accuse him of nothing but his own peculiar and well known crimes."

In the next year, B.C. 81, Verres was called upon by the *quaestores aerarii*, P. Lentulus Sura and L. Valerius Triarius,<sup>4</sup> to account for the funds which he had received from the treasury during the previous year. The outcome of the investigation is not known.

The *praetura urbana* at Rome for the year 81 fell to Cn. Cornelius Dolabella, who is accused by Cicero of grossly unjust use of his judicial prerogatives in the trial of P. Quinctius.<sup>5</sup>

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<sup>1</sup> Act. I, 11 ; Cf. III, 177.

<sup>2</sup> I, 38.

<sup>3</sup> I, 43.

<sup>4</sup> I, 37.

<sup>5</sup> Cic. pro Quinct., 2, 9 ; 8, 30.

That the charge was probably well founded, is shown by Dolabella's subsequent career as one of the most flagrant plunderers among Roman provincial governors. The next year after his city praetorship, being assigned to the province of Cilicia, the propraetor, evidently recognizing in Verres a kindred spirit, and thinking he saw in the latter a useful tool, named him *legatus*. These two, with Dolabella's quaestor, C. Malleolus, then embarked upon a career of spoliation whose progress Cicero compares with that of a pestilence.<sup>1</sup> Not even waiting to reach their own province, they stopped in Achaia,<sup>2</sup> where upon some pretext, Verres demanded money from a magistrate of Sicyon.<sup>3</sup> Upon the refusal of his demand, he ordered a fire to be built of green and damp wood, in a closely confined place, and there he left the man half dead, tortured with the smoke.

At this time Verres enjoyed his first opportunity to indulge extensively his passion for acquiring works of art. The ethical code of a connoisseur is often subject to strange variations from the legal provisions covering property rights, and it was thoroughly characteristic of the *legatus* of Dolabella that he usually allowed nothing to come between himself and the possession of the coveted *objets d'art*. At Delos the famous shrine of Apollo was plundered by night of its beautiful and ancient statues, which were speedily placed on Verres's own transport. But a great storm arose, destroyed the ship, and cast the statues up on the shore. Dolabella, possibly alarmed at what the angry populace hailed as a sign of the god's displeasure, ordered the statues restored.<sup>4</sup> So Apollo was vindicated. At this time C. Claudius Nero was governor of the province of Asia.<sup>5</sup> The new arrivals from Rome were richly entertained with banquets and presented with costly gifts by the inhabitants, perhaps as a precautionary measure. If so, their foresight was in vain, for the

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<sup>1</sup> I, 44.

<sup>2</sup> Div. 6, 38.

<sup>3</sup> I, 44, 45.

<sup>4</sup> I, 46.

<sup>5</sup> I, 50, 71, 72, 75.

plundering proceeded as it had begun. Statues at Chios, Erythrae, and Halicarnassus were seized.<sup>1</sup> At Tenedos, after the confiscation of money, the Roman legate carried off the statue of Tenes, patron deity of the place. Juno of Samos was next to suffer, her temple being stripped of pictures and statues which Cicero personally testifies to having seen in Verres's house at Rome,<sup>2</sup> ten years afterwards. At length the wrathful Samians sent representatives to Nero to ask for satisfaction, but the governor, who was not an overly courageous man, replied that a complaint against a legate could only be heard by the senate at Rome, and refused to entertain any accusation against Verres, who was thus encouraged to further seizures. Cicero states that at Aspendus in Pamphylia everything from the temples and public places was openly loaded upon wagons and carted off,<sup>3</sup> as it was no longer necessary to use stealth and the cover of darkness. The temple of Diana at Perga was plundered, the statue of the goddess herself being stripped of golden ornaments. All of this booty appeared later in Rome, where ambassadors from Asia and Achaia saw it and wept for their lost treasures.<sup>4</sup>

But Verres did not devote himself exclusively to beautiful works of art. Beautiful women were ever his legitimate prey,<sup>5</sup> and he relied, usually with success, upon the power of his rank to protect him from the consequences of his amorous adventures. At this time Dolabella was engaged in a war,<sup>6</sup> and his legate was sent upon a mission to king Nicomedes in Bithynia and to Sadala in Thrace, both allies of Rome,<sup>7</sup> the purpose of which was to secure a contribution to aid in the prosecution of hostilities. In the course of his journey he arrived at Lampsacus on the Hellespont and was entertained there at the home of one Janitor, his suite being quartered upon other citizens. According to his

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<sup>1</sup> I, 49.

<sup>2</sup> I, 50.

<sup>3</sup> I, 53, 93; Act. I, 11.

<sup>4</sup> I, 59.

<sup>5</sup> I, 62.

<sup>6</sup> I, 73.

<sup>7</sup> Ps. Ascon., p. 240 (Stangl); I, 63.

usual custom he bade his followers ascertain if there might be any virgin "worthy" of his making a longer stay at Lampsacus. A certain Rubrius,<sup>1</sup> who was his chief reliance in such enterprises, promptly reported that Philodamus, one of the first citizens of the place, had a lovely and virtuous daughter, who made her home with her father. Verres was for setting out to Philodamus immediately, but Janitor, his host, fearing to have given some offense to his powerful guest, put forth every effort to detain him. Being unable in his haste to find any pretext for leaving Janitor's house, he declared that Rubrius, his most loved friend and assistant, was not comfortably lodged and must be taken to the house of Philodamus. Upon being informed of his prospective guest, Philodamus protested that his rank entitled him to receive praetors and consuls themselves and not a mere attendant of a legate; but his objections were overruled and Rubrius was billeted upon him. Thereupon Philodamus, not wishing to appear inhospitable or ungracious,<sup>2</sup> prepared a magnificent banquet and bade Rubrius invite whomsoever he chose, leaving room only for his host. Even the son of Philodamus was sent out to dine at the house of a relative. Rubrius of course invited the companions of his master,<sup>3</sup> already instructed as to their duties. As the banquet proceeded and the guests became more and more flushed with wine, Rubrius made the amazing demand, "I would know of you, Philodamus, why you do not have your daughter summoned hither to us." The host, pressed for a reply, managed to answer that it was not the custom of the Greeks for women to recline at the banquets of men. At this, an uproar of protest was raised among the guests, and Rubrius ordered his slaves to close the door and to see to it that the outer entrances were guarded. Philodamus, now perceiving the plot, and realizing that its purpose was the abduction of his daughter, bade his servants defend her and commanded that one of them should hasten to inform his son of the crisis.<sup>4</sup> A general fight ensued, in the

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<sup>1</sup> I, 64.

<sup>2</sup> I, 65.

<sup>3</sup> I, 66.

<sup>4</sup> I, 67.

course of which the host was severely scalded with boiling water by Rubrius himself. The son, hearing of the occurrence, hastened to the house, attended by many of the citizens of Lampsacus. In the *mélée* Cornelius, the lictor of Verres, who had been entrusted with the specific duty of carrying off the girl, was killed ; some of the slaves, along with Rubrius, were wounded. Verres, remaining all the while at a safe distance, became alarmed at the unforeseen consequences of his plan, and began to look for an avenue of escape.

The next morning in a public assembly,<sup>1</sup> the Lampsacenes, bitterly denouncing the conduct of the legate, resolved that they would prefer to endure the consequences at the hands of Rome rather than suffer the establishment of any such license of action for Roman representatives. Gathering before Janitor's house, they began to beat the door with stones and iron implements, to surround it with inflammable material and set fire to it.<sup>2</sup> All that saved Verres from death at the hands of the mob was the fact that Roman citizens who lived as traders at Lampsacus entreated the citizens to respect the legate's office, even though its incumbent was deserving of the fate they were preparing for him, pleading that in view of the fact that his attempt had not been successful and that his stay in the town was at an end, their error in sparing a wicked man would be less than that in not sparing a legate. Thus Verres escaped with his life, but the resentment aroused by the failure of his plan prompted him to revenge.

Philodamus and his son were arraigned before Nero for the murder of the lictor.<sup>3</sup> Because it appeared that the man had been legally killed by the defenders of Philodamus's daughter, Verres feared that the old man would be acquitted. He therefore requested Dolabella to go to Laodicea and explain to Nero how dangerous it would be if the defendant were allowed to live and publish his wrongs at Rome. The *propraetor*, accompanied by his suite, in which Verres was included, thereupon set out

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<sup>1</sup> I, 68.

<sup>2</sup> I, 69.

<sup>3</sup> I, 72.

for the governor's capital.<sup>1</sup> The acquiescent Nero even invited them to seats on the judicial bench, already partially occupied by some Roman creditors of the Greek provincials, unscrupulous men and anxious to win the favor of a legate. The unfortunate prisoner could find no one to defend him. The prosecution was in the hands of one of these same Roman creditors of the Lampsacenes.<sup>2</sup> Even under these adverse circumstances, and although the death of Cornelius was clearly proved, yet the injury which the old man had suffered made such a deep impression upon the court that the case was adjourned for further inquiry.

At the second hearing of the case, the vacillating Nero, too timid to permit the reaching of a verdict without the intervention of Verres and Dolabella, allowed Philodamus and his son to be convicted by a few votes.<sup>3</sup> Thereupon Dolabella, not wishing to run the risk of a delay, pressed the governor for an immediate execution and, as usual, carried his point. The old man and the young one were led out to die in the market-place of Laodicea, victims of the systematic Roman terrorization of the provincials.

As an example of the legate's avarice at this period, Cicero cites the affair of the Milesian ship.<sup>4</sup> In the year 84 B.C., after Sulla had concluded peace with Mithridates, he had left as propraetor of Asia his commander, L. Licinius Murena.<sup>5</sup> The latter ordered the provincial cities to build ships for the Roman fleet, the number assigned each city being proportional to the amount of its taxation. The number thus apportioned to Miletus was ten, and the requirement had been duly met. Verres, having occasion to make a voyage to Myndus, a distance not over forty miles by sea, demanded of the Milesians one of these ships to attend him as a guard. Not daring to protest, the city magistrates immediately provided him with one of the best, and

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<sup>1</sup> I, 73.

<sup>2</sup> I, 74.

<sup>3</sup> I, 75.

<sup>4</sup> I, 86-90.

<sup>5</sup> Appian, Mithridates, 64.



with it he set out for Myndus. Arriving there, he ordered the commander and crew to return home on foot, and sold the ship to L. Magius and L. Fannius, deserters from the army of Sulla, and later declared public enemies by the senate.<sup>1</sup> This same ship, Cicero states, was used by the traitors in the interests of Mithridates and against the Roman people. The captain of the ship, upon returning to Miletus, reported the matter to the authorities, but again the useful Dolabella intervened, hushed up the man with threats of punishment, and ordered his report to be erased from the public records. But after the Roman officials had departed, the Milesians not only made the full particulars of the case a matter of public record, but even included a statement of the reason why the entry was not dated at the time of the occurrence.

When Dolabella left the city praetorship for the Asiatic province, his quaestor was C. Publicius Malleolus.<sup>2</sup> This third member of the partnership of plunder, when he left Rome, was a poor man, but at the time of his death, about a year later, he left, we are told, "a great quantity of silver plate, a large household of slaves, many artisans, many handsome youths."<sup>3</sup> Thus lucrative was the occupation of exploiting the provinces. Verres was not slow to profit in more than one way by the death of the quaestor.<sup>4</sup> For Dolabella immediately named him proquaestor,<sup>5</sup> and he was appointed guardian of the young son of Malleolus. The administration of estates has ever offered opportunities to the unscrupulous. Verres managed to seize such of the dead quaestor's suddenly acquired wealth as pleased him; the remainder he sold, appropriating the money, which Cicero esti-

<sup>1</sup> Ps. Ascon. p. 244 (Stangl); I, 87.

<sup>2</sup> See p. 7.

<sup>3</sup> I, 91.

<sup>4</sup> The scholiast points out (Ps. Ascon., p. 244, Stangl) that the prosecutor, having supplied to Verres a sufficient motive in the enumeration of Malleolus's wealth, hints, in the use of the word *occiso*, at murder at the hands of the dead man's fellow-plunderer. But it is only a hint, and is hardly to be taken as more than a rhetorical flourish.

<sup>5</sup> Act. I, 11; I, 34, 42, 77, 90, 95; III, 177.

mates as 2,500,000 sesterces. The only account which he ever rendered of his guardianship was given later upon his return to the capital when, wearied by the importunities of his ward's mother and grandmother, he stated that he had received a million sesterces. Then on the last line of the statement, inserting the name after erasure, he declared that he had paid to Chrysogonus, a slave, 600,000 sesterces for the young Malleolus.<sup>1</sup> Of this sum not over 50,000 sesterces ever reached the boy's hands and only a few of the slaves were restored to him. Practically all of the remainder of the estate came into the hands of his guardian.

As proquaestor of Dolabella, Verres made full use of his new authority by a system of arbitrary levies on the states of Milyas, Lycia, Pamphylia, Pisidia, and Phrygia, afterward compelling the citizens to deliver cash instead of the grain, hides, haircloth, sacks, and other materials specified in the levies.<sup>2</sup> This same scheme he afterwards put into successful operation in Sicily.

But Dolabella's seizures had not passed unnoticed, and upon his return to Rome in the year 78 he was indicted for extortion. The action was brought under the *Lex Cornelia*<sup>3</sup> (the same law under which the Sicilians later indicted Verres) by the young M. Aurelius Scaurus.<sup>4</sup> By the aid of his former partner in plunder, he was speedily convicted. For Verres, as ready to desert Dolabella as he had been to leave Carbo, turned state's evidence and succeeded in escaping unscathed.<sup>5</sup> Of Dolabella's guilt there was of course no doubt, and his responsibility was increased by the fact that he had encouraged his subordinates to plunder for themselves. Vast discrepancies between the accounts of Dolabella and those turned in by Verres are seized upon by Cicero to discredit the latter,<sup>6</sup> though the prosecutor introduces

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<sup>1</sup> I, 92.

<sup>2</sup> I, 95.

<sup>3</sup> On the *Lex Cornelia de Repetundis*, see Chapter VII.

<sup>4</sup> I, 97; Ps. Ascon. in Div., p. 194 (Stangl); Ascon. in Scaurianam, p. 27 (Stangl).

<sup>5</sup> Act. I. 11; I, 41, 42, 77, 97, 98; III, 177.

<sup>6</sup> I, 99, 100; III, 177.

no evidence to show that the fault was that of Verres rather than his chief. As a matter of fact, so closely associated had their operations been that it would probably have been extremely difficult to differentiate the guilt of the one from that of the other. It seems altogether probable that the *propraetor* thought he saw in Verres a skilful assistant and a convenient tool, and that the outcome was simply a case of being beaten at his own game by a more adroit player.<sup>1</sup> Verres even claimed that he himself had purchased the works of art which he had brought to Rome, a statement of which Cicero disposes by a challenge to show any such item in his accounts.<sup>2</sup> Dolabella, crushed by the weight of evidence against him, went into exile, leaving his wife and children in dire poverty.<sup>3</sup>

With the wealth which he had acquired in the seven years since his first quaestorship under Carbo, Verres was now in a position to go still further in his quest for power and enrichment. The degree of his success heretofore could not fail to prompt him to further efforts. He had in mind a definite end which was to constitute the next stepping-stone in his elevation. In his hands he held the means of attaining it. That end was the city praetorship.

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<sup>1</sup> This is also the view of Ciccotti, p. 92 f.: "*Dolabella ne fu l'autore, Verre ne fu l'esecutore materiale.*"

<sup>2</sup> I, 60, 61. Cf. similar claims in connection with the seizure of Sicilian works of art. (See Chapter V.)

<sup>3</sup> I, 77.

## CHAPTER II.

### THE CITY PRAETORSHIP (B. C. 74).

Of the four years of Verres's life from the conviction of Dolabella until his assumption of the *praetura urbana*, we know few details. Cicero states that he was seldom seen at Rome,<sup>1</sup> but that in his absence he was by no means forgotten, as his iniquities were common talk. That he was far from being idle during this period of retirement from official position, may well be judged by his re-entry into the political arena at the end of it. His tireless ambition, unhindered by any particular scruples, would not allow him to continue long in the mere enjoyment of the wealth he had amassed in Asia, even though the fear of any prosecution on that score had been entirely allayed by his *coup* at the trial of his fellow plunderer. He now showed himself to be as adept in winning political friends and allies with his treasure, as he had already proved in the acquirement of it. In the year 75 B. C. Hortensius, defender of Verres in the great trial five years later, was aedile, and as such had supervision of the public games. The decorations of the Forum and the Comitium that year were exceptionally brilliant, the principal element in the scheme being wonderful pictures and statues presented to the aedile by his future client.<sup>2</sup> By this sort of judicious distribution of favors Verres soon convinced himself that, as Cicero said later, "these men who desired to be considered the masters of the courts of law"—an oblique reference to Hortensius—"were slaves" of their own covetousness.<sup>3</sup> The powerful Metelli were enlisted for future exigencies by the same adequate means.<sup>4</sup> The prosecutor does not hesitate to charge openly that the votes necessary for the election of Verres to the praetorship by the *Comitia Centuriata* were purchased,<sup>5</sup> even naming the sum as 300,000 sesterces paid to professional bribers (*divisores*) for corrupting the electors.<sup>6</sup>

<sup>1</sup> I, 101.

<sup>2</sup> Ps. Ascon., p. 238 (Stangl) ; I, 22.

<sup>3</sup> I, 58.

<sup>4</sup> Ps. Ascon., l. c.

<sup>5</sup> I, 101, 102.

<sup>6</sup> IV, 45. On the reading "80,000 sesterces," cf. Zumpt, Verr., p. 693.

In Cicero's time the praetorship was, of course, an exclusively judicial office, the specific functions of the eight officials being decided by lot after the election. Of these assignments the most important of all in some respects was the *jurisdictio urbana* or jurisdiction of the court for civil litigation arising between citizens. This the lot threw to Verres,<sup>1</sup> and during the year 74 he furnished at Rome, upon a relatively small scale, a striking demonstration of the methods which were to be so conspicuous in Sicily later on.<sup>2</sup>

During the year of his jurisdiction the praetor was completely under the domination of his mistress, Chelidon, a fact which Cicero emphasizes by the picturesque assertion that he even "transported his whole praetorship to Chelidon's house."<sup>3</sup> So absolute was this freedwoman's power that her house was continually filled with those who would gain the ear of Verres. At her suggestion he often reversed newly given decisions and handed down others quite inconsistent with those already in force.<sup>4</sup> It was from her house that he emerged, having first taken the auspices with her, to compose his first edict, the pronouncement of a new praetor, setting forth his judicial program and stating what rulings he would make under certain specified conditions.<sup>5</sup> This was known as the *edictum perpetuum* or *lex annua*,<sup>6</sup> as distinguished from *edicta repentina*, issued during the year with reference to particular cases, and theoretically, of course, consistent with the general provisions of the *edictum perpetuum*.<sup>7</sup>

<sup>1</sup> I, 104.

<sup>2</sup> Act. I, 12, 13; I, 34; V, 15; pro Cluent. 33.

<sup>3</sup> V, 38. The scholiast (Ps. Ascon., p. 250) affirms that she was only a plebeian client of Verres, that at her death she made him her heir, and that the prosecutor went too far in calling her his mistress. Cf. II, 116; also *meretricis heredem*, IV, 7.

<sup>4</sup> I, 119, 120, 136, 139; III, 78.

<sup>5</sup> I, 104; Ps. Ascon., p. 247 (Stangl). The scholiast sees here a pun on the name Chelidon, a swallow, because swallows were common in the city and so the city office might be said to have been entered by Verres "*auspicato a chelidone*."

<sup>6</sup> I, 109.

<sup>7</sup> On praetorian edicts see Muirhead, *Roman Law*, pp. 238-242.

The edict contained a paragraph which was intended to permit the seizure of the paternal inheritance of a Roman citizen's daughter. The *Lex Voconia* of B. C. 169, proposed by the plebeian tribune, Q. Voconius Saxa,<sup>1</sup> and eloquently advocated by M. Cato,<sup>2</sup> had provided that no person who after that year should be enrolled in the census, should make a woman his heiress.<sup>3</sup> The possession of 100,000 sesterces was at that time prerequisite to enrollment.<sup>4</sup> No exceptions were allowed, not even in the case of an only daughter.<sup>5</sup> But the law applied only to testamentary legatees, so that a daughter or any woman could inherit *ab intestato* or by legitimate succession to any amount. The original purpose of the law was to prevent the transfer of fortunes from one family to another through inheritance by a woman and her consequent marriage.<sup>6</sup> Another provision forbade a person who was rated in the census to leave to anyone, in the form of a legacy or *donatio*, an amount in excess of what the heir or heirs were to receive.<sup>7</sup> In the year before Verres became praetor, one P. Annius Asellus died at Rome, his estate being valued at an amount below that necessary for census rating.<sup>8</sup> His only daughter, Annia, was therefore appointed by him as his heiress—a legal act. In the will he named as second heir a male relative, Lucius Annius. The new praetor, seeing here not only an opportunity for profit but the chance to establish a precedent whereby future gains would come his way, offered for a specified sum to set aside by official edict the lineal and direct succession in

<sup>1</sup> Livy, Periocha XL1.

<sup>2</sup> Cic. de Senectute, V, 14.

<sup>3</sup> I, 107.

<sup>4</sup> Ps. Ascon., p. 247 (Stangl); Dio Cassius LVI, 1c. Gaius (Inst. II, 274) names the sum as *centum milia aeris*, or 100,000 asses.

<sup>5</sup> Augustinus, de Civit. Dei, III, 21.

<sup>6</sup> For a full discussion of the *Lex Voconia* and the difficulties of its interpretation, see Orelli, *Onomasticon Tullianum* III, Index Legum, pp. 294–305; Zumpt, *Verr.*, pp. 183–186; Muirhead, *op. cit.*, p. 270; Smith, *Dict. Ant.*, p. 701; Long, *Verr.* I, pp. 151–155; Greenidge, *The Legal Procedure of Cicero's Time*, p. 95 ff.; Ciccotti, *op. cit.*, p. 97 ff.

<sup>7</sup> I, 110.

<sup>8</sup> I, 104.

favor of the Annii named as second heir. After having been repeatedly refused a bribe by the girl's guardians, who were unwilling to believe that the praetor would actually carry out his threat, Verres issued his edict. By a decision which was in effect *ex post facto* legislation, and which was specifically worded with the idea of attracting second heirs to the profitableness of contesting wills successfully in collusion with the praetor,<sup>1</sup> Annii was awarded the estate, the girl was deprived of what was legally and ethically hers, and the precedent that the law did not apply to one not rated in the census was set aside. Fortunately such a method of settling estates went out of fashion after Verres left the praetorship,<sup>2</sup> and he himself repudiated it during his Sicilian administration,<sup>3</sup> though with what sincerity it would be difficult to say.

Another instance of interference with the laws governing inheritance is furnished by the case of Minucius, a citizen who died intestate. By law the estate should have reverted to the Minucian family,<sup>4</sup> and the praetor should have issued an edict to that effect, first giving an opportunity to any person who claimed to be the testamentary heir to prove his claim. The edict was issued, but so worded in favor of a certain individual not named, that the latter, by taking advantage of some legal loopholes in regard to the giving of security and the exact number of seals necessary on testamentary papers, was enabled to gain possession of the estate. And for this also the praetor received his price.

Verres never felt any scruples against issuing *edicta repentina* entirely at variance with his *edictum perpetuum*. It was such abuses as this which seven years later brought about the passage of the Cornelian Law, which bound city praetors throughout their terms of office to follow consistently their first edicts.<sup>5</sup> The most successful method of relief from the arbitrary decrees of

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<sup>1</sup> I, 106-113.

<sup>2</sup> I, 111, 112.

<sup>3</sup> I, 117.

<sup>4</sup> I, 115. Cf. Zielinski, *Philologus* LII, pp. 259 ff.

<sup>5</sup> *Ascon. in Cornelianam*, p. 48 (Stangl); Dio Cassius XXXVI, 23.

Verres was the right of *intercessio* or veto, which one praetor might exercise upon the acts of another. It so happened that one of his colleagues was a certain L. Calpurnius Piso, a man of singular incorruptibility and openness of mind,<sup>1</sup> who "filled many books with the cases in which he had interposed his authority, because Verres had decreed contrary to his own edict." As a consequence, Piso's court was continually thronged with those who wished redress of their grievances and who were unwilling to submit them to the arbitration of the notorious Chelidon.

Since Verres was an aristocrat, an adherent of the senatorial party, and a thorough disbeliever in the theory that the common people had any rights,<sup>2</sup> his arrogance and cruelty toward the masses were known and feared, even in an age when such an attitude was not only common but usual. At his order a plebeian was scourged, an occurrence which aroused a tribune of the plebs to bring the man into a public place to exhibit his wounds.<sup>3</sup> A characteristic example of the praetor's attitude toward those of low degree, is afforded by his decision in the matter of the estate of P. Trebonius, a Roman *eques* who, desiring to provide for his brother, Aulus Trebonius, proscribed by Sulla, specified that his heirs should be required to take oath to the effect that the half of each man's inheritance should go to the proscribed brother. This circuitous course was made necessary by the law of Sulla prohibiting the giving of aid to the proscribed. Among the heirs was a freedman of Trebonius who, under a sense of obligation to his patron, took the oath to commit the illegal act. The other heirs, being "virtuous and honorable men," went to the praetor, pointed out to him that they ought not to take any such oath, and were authorized by him to refuse it. They were

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<sup>1</sup> Div. 64 ; I, 119.

<sup>2</sup> I, 122, 123, 127.

<sup>3</sup> I, 122. The scholiast (Ps. Ascon., p. 250, Stangl) identifies the tribune as M. Lollius Palicanus, who exerted himself in the restoration of the *tribunicia potestas* as it had been before Sulla's time. But Zumpt (p. 204) shows that Palicanus was probably not tribune of the plebs until B.C. 71, three years later.



then awarded full possession of their respective inheritances. So far not even Cicero ventures to question the justice of the praetor's position. But the freedman who had taken the oath was refused his inheritance *in toto*, in spite of the fact that the *Lex Cornelia* provided a penalty if he should attempt to carry out the terms of his oath and that from any such obligation he was by common usage automatically released, on the ground of its illegality. *Possessio* should have been granted all the heirs indifferently, the matter of the oath being entirely irrelevant.<sup>1</sup> The fact that the only victim of injustice here was a freedman is significant. Significant also is the question with which the praetor lightly dismissed the matter,—“Can a freedman be heir to a Roman knight of such great wealth?”<sup>2</sup>

The manipulation of wills was so profitable a business that Cicero claims to be able to produce an indefinite number of decrees which would demonstrate on their very face that money had thwarted justice.<sup>3</sup> But of only one other case does he give us the details. The year before, while C. Sacerdos was still praetor, a certain M. Octavius Ligur, a citizen of rank and character, had inherited the estate of a freedman, C. Sulpicius Olympus, who in making Ligur his heir had ignored his patron.<sup>4</sup> Under the Law of the Twelve Tables he had a right to do this,<sup>5</sup> although later, according to Ulpian,<sup>6</sup> if a freedman left nothing, or less than one half of his estate to his patron, the praetor's edict gave the patron the right of *bonorum possessio contra tabulas testamenti* to the extent of one half, unless the testator had left a natural child as heir. Just when this rule was introduced,

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<sup>1</sup> See Long, (Cic., Verr., p. 131) who argues correctly against the claim of Klotz that Verres did not act illegally in refusing *possessio*. Cf. Ps. Ascon., p. 250 (Stangl), who contends that the will should either have been entirely invalidated or wholly carried out. But Cicero himself finds nothing to criticize in the first part of the decision.

<sup>2</sup> I, 124.

<sup>3</sup> I, 125.

<sup>4</sup> I, 125, 126.

<sup>5</sup> Gaius, Inst. III, 40.

<sup>6</sup> Ulpian, Frag. Tit. XXIX.

is not clear. At any rate, Ligur had been awarded possession of the estate without dispute the year before Verres became praetor. But the latter was not long in issuing one of his characteristic special edicts, under the provisions of which the daughter of the disinherited patron brought suit for one sixth of the estate. In the absence of the defendant, Ligur, his cause was defended by L. Gellius Poplicola, the friend of Cicero.<sup>1</sup> The praetor declared that unless the defendant should come to some terms with the woman—a provision entirely outside his province, which was to decide the case on its merits—he would order her to take possession. Gellius forcibly reminded him that his edicts were not legally binding in cases already settled before the year of his praetorship. But this plea was in vain, and to the objections of the defendant upon his return to the city, Verres could only reply that Ligur had been very inconsiderate in thinking of his own advantage and in not remembering the praetor, who not only needed much for himself but for the faithful “Dogs” which he kept about him, the latter epithet being his own contemptuous appellation for the satellites who served him by tracking down chances for plunder and who then looked to him for reward.<sup>2</sup> So Ligur was defrauded out of his estate and the principle was thus firmly impressed upon the minds of other beneficiaries under wills that the praetor was to be co-heir in every case of such inheritance.

Since the year 86 B. C. no censors had been named at Rome,<sup>3</sup> and in the absence of such officials, the senate by special decree ordered the praetors, Verres and P. Coelius, to make examination of such public buildings as had not been officially approved and to render decision as to their acceptance from the contractors.<sup>4</sup> Such an opportunity for exploitation was not to be slighted, and Verres first turned his attention to the famous temple of Castor

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<sup>1</sup> Cic. de Legg. I, 20, 53.

<sup>2</sup> I, 126, 133.

<sup>3</sup> Div. 8; III, 16, 17.

<sup>4</sup> I, 130.

and Pollux on the Forum.<sup>1</sup> In the year 86 B. C. when L. Marcius and M. Perperna were censors,<sup>2</sup> a certain Publius Junius had contracted with them for the care of the temple. Six years later, in the consulship of L. Sulla and Q. Metellus, Junius died, leaving a son under age. Five years after this, in 75 B. C., the consuls L. Octavius and C. Aurelius, in the absence of any censors, had re-let the contracts for the repair of public buildings; but neither they nor the praetors, C. Sacerdos and M. Caesius, to whom the duty had been entrusted, had had opportunity to determine whether the contracts had been duly performed.<sup>3</sup> Thus it was that this duty devolved upon Verres and his colleague in the next year. Upon investigation Verres found that the young Junius was still a minor and, by the provisions of his father's will, under the guardianship of L. Habonius. The latter, by agreement with his ward, had taken up the contract, and under the terms of the agreement the temple was to be turned over to him in perfect repair. Verres, thinking that in so large and elaborate a structure, in however thorough a state of repair it might be, he could certainly find something needing attention, and so could hit upon an excuse for plunder, questioned Habonius carefully as to whether the terms of the contract had been fully complied with. Upon being assured by the boy's guardian that everything was in perfect order, he determined to visit the temple and see for himself. This he did and found that Habonius had told the truth; the building was as good as new.<sup>4</sup> He began to have fears that his scheme was destined to failure, when one of the faithful "Dogs" saved the day. This hanger-on informed his master that almost no column was absolutely perpendicular, and suggested that every column in the temple be tested with a

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<sup>1</sup> I, 131-154; V, 186. See Livy II, 20, 42 for an account of the origin of the temple as a votive offering of the dictator, A. Postumius, for victory in the battle of Lake Regillus, 496 B.C., and of its dedication by his son sixteen years later. It was destroyed in the Gallic invasion, later rebuilt, and further restored and beautified by L. Metellus Dalmaticus, consul B. C. 119.

<sup>2</sup> I, 143.

<sup>3</sup> I, 130.

<sup>4</sup> I, 133.

plumb-line, though no such test was either customary or required by the contract. Undeterred by this fact, the praetor ordered the test to be made, with a firm conviction that thus he would be afforded a pretense for rejecting the work done and refusing to grant a discharge to Habonius. The latter, upon hearing of this procedure made a protest, but without avail. The boy's step-father, C. Mustius, his uncle, M. Junius, and another guardian, P. Potitius, after a conference, prevailed upon M. Marcellus, still another guardian and a man of influence, to see the praetor personally and to present the case as effectively as possible. But the plunder-lust of Verres had been aroused and he turned a deaf ear to their appeals. In desperation they swallowed their pride and turned to the court of last resort, Chelidon.<sup>1</sup> After waiting their turn among the crowd in the courtesan's anteroom, they were finally admitted. They explained the matter in detail, not forgetting to assure her that they were ready to pay for her assistance. Chelidon replied that she would do what she could, but reported the next day that the praetor was adamant, as he was convinced that a vast sum could be made out of the affair.

To approach the praetor in person was the sole course of action now remaining. Accordingly the other guardians and Habonius agreed to offer to buy him off for 200,000 sesterces,<sup>2</sup> whereas 40,000 would have been amply sufficient to settle the whole matter under ordinary circumstances. Verres refused to come to terms upon any such basis and declared that he would let the contract anew to another contractor, on the ground of non-performance. This he prepared to do without even naming a specific day for bids, and at a most unfavorable time, about the Ides of September,<sup>3</sup> when the Forum was already decorated for the *Ludi Romani*. The first of December was specified as the time limit for completing the work, the interval being purposely made so short as to discourage bidders,<sup>4</sup> in order that the work might the more easily be awarded to the contractor designated by Verres,

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<sup>1</sup>I, 136, 137.

<sup>2</sup>I, 140.

<sup>3</sup>I, 148.

<sup>4</sup>Ibid.; III, 16.

through whom he hoped to obtain his plunder. Yet in some way the guardians learned of the day when the contract was to be let by *auctio* or public bidding, and M. Junius, the boy's uncle, appeared, in order to secure it for him if possible. By every right of former usage that bidder was given preference to whom the property belonged and at whose risk it was being sold.<sup>1</sup> Relying on this precedent, Junius repeatedly offered to do the work for 80,000 sesterces, "even to the satisfaction of the most arbitrary of men."<sup>2</sup> But nothing availed when the praetor's determination was fixed, and the contract for resetting a few columns was duly awarded to Verres's man for 560,000 sesterces, while the son of Junius, responsible by his father's contract for the repairs on the temple, was ordered to furnish the funds.<sup>3</sup> Insult was added to injury by the revelation that the contractor with whom Verres was in collusion was none other than Habonius, the boy's guardian, who thought he saw in the service of Verres an opportunity of enriching himself.<sup>4</sup> Of course the carrying out of the contract was a mere matter of form. A few of the columns were torn down, put up again with the same stones, and solemnly whitewashed. Others were never touched at all. Still others were given a fresh coat of white without having been moved. "If," says Cicero, "I had thought that it cost so much to put on a coat of white, I should certainly never have been a candidate for the aedileship."<sup>5</sup> On the first of December, when the time limit for the fulfillment of the contract expired, no one troubled Habonius by investigating—either then or in the days following—and Verres actually left Rome for Sicily some time before the work was completed.<sup>6</sup> That the money was actually paid to the praetor, Cicero had little difficulty in proving from the fact that Verres, later becoming alarmed, paid back to Decimus Brutus, whose estate was involved as

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<sup>1</sup> I, 142.

<sup>2</sup> I, 144.

<sup>3</sup> I, 146.

<sup>4</sup> Ps. Ascon., p. 254 (Stangl).

<sup>5</sup> I, 145. Cf. V, 36 where among other duties of the aediles, Cicero mentions *sacrarum aedium procurationem*.

<sup>6</sup> I, 149.

security and who had therefore made the payment for Junius, 110,000 of the 560,000 sesterces, a most damaging transaction.<sup>1</sup> Furthermore the receiver of the money had been Cornificius, commonly known to be Verres's secretary. Finally the accounts of Habonius furnished documentary evidence for the truth of the charge.<sup>2</sup> So the name of Junius was added to the already lengthy list of the praetor's victims.

One other case of manipulation of a contract was involved in the repairing of the road leading from the statue of Vertumnus to the Circus Maximus,<sup>3</sup> the route along which the statues of the gods, borne on sacred cars, were taken to the public games.<sup>4</sup> The work was approved by Verres for a price, but so poorly had it been done that the street soon became almost impassable. Graft in paving contracts is not a new feature of municipal governments.

The popular reaction against the senatorial oligarchy established by Sulla was becoming more and more a source of anxiety to the optimates. From the first, Verres was naturally identified with the aristocratic party, and it was to the influential members of that party that he looked for defenders a few years later.<sup>5</sup> In the course of the previous year the consul M. Aurelius Cotta had brought forward a bill to exempt tribunes of the plebs from that provision of the Sullan constitution which excluded them from the higher magistracies. Q. Opimius as tribune introduced the bill into the comitia<sup>6</sup> and it became a law. This was too great an offense to be ignored, and consequently the next year Opimius was brought to trial before Verres as presiding justice, on the charge of having interposed his veto in a manner contrary to the *Lex Cornelia*.<sup>7</sup> In a farcical trial lasting only three hours he was condemned and fined, and the praetor further added to

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<sup>1</sup> See Bondurant, D., Junius Brutus Albinus, Univ. of Chicago Diss., 1907, p. 21.

<sup>2</sup> I, 150.

<sup>3</sup> I, 154.

<sup>4</sup> III, 6; V, 186; Ps. Ascon., p. 255 (Stangl).

<sup>5</sup> See Chapter VII.

<sup>6</sup> Ps. Ascon., p. 255 (Stangl).

<sup>7</sup> I, 155; Cf. Cic. de Legg., III, 9.

his growing fortune from the sale of the man's property, put up at auction. The proceeds from such sale should, of course, have gone into the state treasury. In this case then, Verres was guilty of an offense not only against an individual, but also against the state.

The praetor was also implicated in the notorious *Judicium Junianum* of the year 74, a verdict reached by jury bribing and by tampering with the lists of *judices*. A certain Oppianicus was on trial for attempted poisoning of the elder Cluentius, the presiding judge being C. Junius.<sup>1</sup> Verres, as praetor, was charged with the duty of superintending the casting of lots (*sortitio*) for the selection of jurors, and after the challenging (*rejectio*) of those distasteful to either side, it was his function to provide for the appointment of others to fill the places of those rejected (*sub-sortitio*). When some of these *judices* and Junius himself were afterwards prosecuted for corruption in the matter, Verres made their condemnation sure by erasing from his registers the names of those who had been actually appointed and by putting other names in their places. This gave strength to the suspicion that Junius had himself fraudulently placed other jurors in the seats of those legally appointed under the praetor's authority. The falsified entry was then formally sealed with the ring of Verres's secretary,<sup>2</sup> and thus had every appearance of authenticity. Junius was obliged to retire permanently from public life and the *Judicium Junianum* became a by-word for a corrupt verdict.

It has been supposed by some that the oration on the city praetorship is incomplete.<sup>3</sup> But there is enough to show the character of Verres's administration of the office, and to demonstrate what an altogether complete preparation it furnished for the three years' exploitation of the rich province whither he next turned his course.

<sup>1</sup> Act. I. 29; I. 157; Cic. pro Cluent. 20, 27, 29, 33; Ps. Ascon. p. 255 (Stangl).

<sup>2</sup> Cf. III, 185.

<sup>3</sup> There seems to be little evidence for this view apart from the rather abrupt ending of the speech as we have it. The editions of Ernesti, Olivetus, Orelli, Zumpt and Long contain no mention of such a theory. Cf. Brückner, *Leben des Cicero*, p. 97.

### CHAPTER III.

#### ADMINISTRATION IN SICILY (B.C. 73-71) (DE JURIS DITIONE).

Up to this point no serious difficulty has been encountered in tracing in approximate chronological order the events of Verres's life insofar as we are acquainted with them. But Cicero, not being primarily a historian, but rather a lawyer and an orator, when he comes to the vast bulk of material he had collected bearing on the three years of the Sicilian administration, forsakes the order of occurrence and makes a four-fold division of that material upon the following basis. Book II of the *Actio Secunda* deals with the propraetor's misuse of the judicial prerogatives of his office ; Book III with the special opportunities for gain which presented themselves in connection with the peculiar system of taxation in vogue in the province ; Book IV with the wholesale appropriation of works of art, including statues, paintings, and other beautiful objects which appealed to the governor's taste ; Book V with the verdicts imposed by Verres in capital cases, verdicts by which even Roman citizens were in some instances tortured and illegally put to death.

As it is a manifest impossibility to separate this mass of evidence and arrange it with any strict regard to chronological sequence, it has seemed preferable not to alter the prosecutor's division of the subject, but to devote the next four chapters respectively to the different phases of the Sicilian administration as outlined in the books above cited. The present chapter then, will be chiefly concerned with the judicial side of Verres's activities in the island and will cover, as will each of the three succeeding chapters, the whole period of his administration during the three years beginning with 73 B.C.

Before entering upon any discussion of our particular subject, it is necessary to go back somewhat into the history of the island, in order to understand not only its internal status but its relation to the government at Rome, both of which contributed to the situation confronting the new governor when he entered upon his office there.



By the terms of peace at the end of the First Punic War, Sicily had become the first province of Rome, and up to the outbreak of the second conflict with Carthage had been a consistent friend. Hiero II, king of Syracuse, an ally of Rome, died in the year 215 B.C.,<sup>1</sup> in the midst of dissensions brought about by the agitation of a strong pro-Carthaginian party, which professed to see the best chance for Sicily's future greatness in forsaking Rome for an alliance with her African rival. This trend of opinion Hiero was powerless to stay, and although the heir to the throne, Gelo, who was a leader of the Carthaginian party, died before his father, the change was inevitable. Hieronymus, the son of Gelo, dominated by his father's political connections, succeeded to the throne at the age of fifteen, and the Punicalliance was officially contracted.<sup>2</sup> That civil war in the island did not immediately follow, was probably due to the fact that Hiero had left that part of it which he controlled well organized in its civil administration. Rome was in the throes of the death struggle with Hannibal and could, for the time being, do nothing to regain the lost alliance. But the young despot, Hieronymus, was murdered at Leontini in the year following his accession, and in 213 B.C. the consul M. Claudius Marcellus was sent by the senate to Sicily. He promptly laid siege to Syracuse, took it in the next year, and during his stay in the island began the settlement of its troubled affairs.<sup>3</sup> He was politic enough to spare Syracuse the usual fate of a captured city, and left it so highly adorned as to be at once, Cicero says, "a monument to his clemency and moderation as well as to his victory."<sup>4</sup> An instance of his assistance in remodelling the civil administration is his regulation at Agrigentum of the method of filling vacancies in the senate of that place.<sup>5</sup>

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<sup>1</sup> Livy XXIV, 4.

<sup>2</sup> See Holm, *Geschichte Siciliens* III, p. 41 ff.; Meltzer, *Geschichte der Karthager*, III; Ciccotti, *op. cit.* p. 57 ff.

<sup>3</sup> II, 4.

<sup>4</sup> *Ibid.*

<sup>5</sup> II, 123.

After the fall of Carthage in B. C. 146, Scipio Aemilianus restored to Sicily a great number of works of art which had been carried to Carthage and had fallen into his hands upon the capture of the city.<sup>1</sup> Of course the island had been a Roman province since 241, but its status was not finally determined until its reorganization by the passage of the *Lex Rupilia* in 131 B. C.<sup>2</sup> This was the work of the proconsul P. Rupilius who, by the advice and assistance of a board of ten commissioners appointed by the Roman senate, drew up a code of regulations for the province which was still in force in Cicero's time. Under the *Lex Rupilia* the Sicilian towns still preserved a quasi-independence, each probably having its own senate, a chief magistrate, public officials, priestly functionaries, and some power even vested in the body of citizens.<sup>3</sup> But in case of difficulty, appeal might be made to the Roman senate, as cited by Cicero in regard to the code of rules drawn up for the senate of Halaesa by C. Claudius Pulcher, B. C. 95.<sup>4</sup> Expenses of the local governments were met by taxes imposed upon property at its rated value, each city electing two censors.<sup>5</sup> The regulations of Rupilius also provided for the conduct of civil suits. Litigation between two Sicilians of the same city was decided by the local practice, a citizen of the place acting as judge.<sup>6</sup> In case of an individual's suit against a community or that of a community against an individual, the senate of a third city furnished the judges.<sup>7</sup> If a Roman brought action against a Sicilian, a Sicilian was assigned by the praetor as judge, and a Roman judge for a suit by a Sicilian against a Roman. In all other cases judges were selected from the body of Roman citizens dwelling in the place.<sup>8</sup>

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<sup>1</sup> II, 3; IV, 72, 73.

<sup>2</sup> II, 32.

<sup>3</sup> II, 161. For a list of the Sicilian towns, see Pliny, Nat. Hist. III, 8. He enumerates 68.

<sup>4</sup> II, 122.

<sup>5</sup> II, 131, 139.

<sup>6</sup> II, 66.

<sup>7</sup> II, 32.

<sup>8</sup> See Greenidge, *Legal Procedure of Cicero's Time*, pp. 114-117.

For the purpose of administering justice, the province was divided into a number of *conventus* or judicial circuits, in which certain towns were designated as accessible centers "where the praetor was accustomed to make a stay and hold his court,"<sup>1</sup> as he went the regular round of the circuit. Syracuse, Lilybaeum, Panormus, and Agrigentum are mentioned as such cities. Here at fixed intervals the Roman citizens of the vicinity assembled, and from these the praetor appointed jurors to try such cases as were brought before him.<sup>2</sup> On his journeys the praetor was accompanied by a retinue, described in the case of Verres as made up of "prefects, clerks, surgeons, attendants, soothsayers, and heralds."<sup>3</sup> Two quaestors were provided for the island: one for the western part, the district of Lilybaeum, and one for the eastern district of Syracuse.<sup>4</sup> It was the former post which Cicero held in 75 B. C.,<sup>5</sup> and in which he distinguished himself by a wise conservation of the abundant crops of the district when there was famine at Rome. His good record in this office was the direct cause of his selection by the Sicilians to conduct their case against Verres five years later,<sup>6</sup> and their friendship for him considerably facilitated his task of gathering evidence for the prosecution.

Although the general provisions of the *Lex Rupilia* were in force in all the towns of the province, yet their status as regards Rome was not uniform. Their classification rested upon the details of the peculiar system of taxation in vogue in the island, where the *vectigalia* were not fixed sums, as in other provinces, but were variable, being tithes or *decumae*, levied on the crops of each year. Different cities were under different obligations, but four general classes may be distinguished: (1) the *Civitates Foederatae*, (2) *Civitates Immunes ac Liberae*, (3) *Civitates Censoriae*, and

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<sup>1</sup> V, 28. See W. T. Arnold, *Roman Provincial Administration*, pp. 58, 59; Holm, IV, 753; Ciccotti, *op. cit.*, p. 70 f.

<sup>2</sup> II, 34.

<sup>3</sup> II, 27.

<sup>4</sup> II, 22; Div. 1-6, 55, 56; Ps. Ascon. p. 259 (Stangl).

<sup>5</sup> V, 35; III, 182; Keil, *Gram. Lat.* 7, 469; Cic. *pro Plancio*, 64.

<sup>6</sup> II, 10.

(4) *Civitates Decumanae*. A discussion of the particular and differentiating features of each class is reserved for the next chapter.<sup>1</sup> The general provision was made that all suits arising between the *aratores* or actual cultivators of the land and the *decumani* or tax-collectors, who farmed the *decumae* were to be referred to the regulations of the *Lex Hieronica* or tax schedules of king Hiero II.<sup>2</sup>

Cicero, in presenting the case of the Sicilians, recommends them to the special consideration of the judges, eloquently pointing out that Sicily, of all foreign nations, was the first real ally of Rome, that she was the first to be called a province, and the first to teach "our ancestors how glorious a thing it was to rule over foreign nations."<sup>3</sup> He emphasizes the continuous good faith and good will which had been exercised toward Rome, and the important part Sicily played both in furnishing grain and in serving as a base for the fleets, in the great struggle which resulted in the final overthrow of the Punic power. The elder Cato had called this province the granary of the Roman state. Its wonderful fertility and abundant crops made its importance to Rome almost inestimable, and many a Roman enriched himself there in land speculation, revenue farming, and usury.<sup>4</sup> In spite of its many wrongs the island recovered quickly. Even such frightful devastations as those of the slave wars (135-100 B.C.) failed to make a lasting impression upon the prosperity of the province, and during the thirty years which followed it had enjoyed tranquillity under a united central government. The increasing investment of large capital tended to increase production. Extensive commerce and varied manufactures contributed to its wealth. Allowing for all possible exaggeration on Cicero's part, it is safe to say that when Verres landed in Sicily he found

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<sup>1</sup> A *Civitas Foederata* was geographically but not juristically in the province, (Cf. Greenidge, *Roman Public Life*, pp. 317-318), and was entirely outside the sphere of the governor's jurisdiction. The same was true of a *Civitas Libera*.

<sup>2</sup> II, 32; III, 14; Polybius, *Bell. Pun.* I, 16; VII, 8.

<sup>3</sup> II, 2.

<sup>4</sup> II, 6; Cf. Livy XXVI, 40.

a prosperous and contented people, peculiarly ripe for exploitation.<sup>1</sup> The administration of his predecessor, C. Licinius Sacerdos, is praised by Cicero<sup>2</sup> as contributing to that prosperity during the year when Verres was praetor at Rome.

That the fundamental facts of the occurrences of the years 73-71 in Sicily are essentially as stated by the prosecutor, can hardly be doubted. Unquestionable as it is that he purposely distorted and enlarged upon certain phases of the defendant's character, as will appear later in the narrative,<sup>3</sup> still the actual occurrences were too recent, too fresh in the public mind to make possible any very extensive falsification or misrepresentation of the facts. Here and there will appear an instance where a question of fact may be successfully raised. But the most damning feature of the presentation of the evidence is the fact that Verres never even made an attempt to refute any of it, although he was surrounded and supported by the most influential clique in the aristocratic party.<sup>4</sup>

The good fortune, perhaps judiciously aided by his wealth, which gave Verres the city praetorship, did not forsake him when the lots were drawn to distribute the provinces for the following year. Upon receiving the appointment as proprætor of Sicily, he lost no time in starting thither, accompanied by his son-in-law, who was with him during the first year, and by his young son, still a mere boy,<sup>5</sup> who spent the entire three years in the vicious atmosphere of his father's retinue. That Verres, even before leaving Rome, had begun deliberately to lay his plans for plunder, Cicero professes to prove by the charge that the new governor began his investigation of possible victims on the very day he landed in Messana.<sup>6</sup> His most prolific source of wealth during the preceding year had been legacies and testament

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<sup>1</sup> II, 7.

<sup>2</sup> I, 27; II, 21, 22, 68; III, 119, 214; Ps. Ascon. arg. Div., p. 185 (Stangl).

<sup>3</sup> See Chapter V.

<sup>4</sup> See Chapter VII.

<sup>5</sup> I, 149; II, 49; III, 23, 159, 160, 161; Ps. Ascon. Arg. Div. 1 (Stangl).

<sup>6</sup> II, 17, 19.

estates. Naturally, then, his first attempt in the new field was in the direction where experience had made him adroit. He had been informed that the son of one Dio of Halaesa had been made heir to a large estate by the will of a relative, Apollodorus Laphiro.<sup>1</sup> By the terms of the will the heir was bound to erect votive statues in the forum, non-performance of this obligation being provided against by a forfeit payable to Venus Erycina<sup>2</sup>. The statues had been duly erected, but the *propraetor*, summoning the elder Dio by letter, brought suit in the name of the goddess for the whole amount of the inheritance through one of his creatures, a certain Naevius Turpio,<sup>3</sup> of unsavory reputation. Such a suit would ordinarily and legally have been brought by the *quaestor* of Lilybaeum, in whose district Mount Eryx was located.<sup>4</sup> Proof of non-performance of the testamentary obligations being impossible, and any forfeiture to Venus consequently and automatically abrogated, Verres simply insisted upon a cash payment to himself as the price of dismissing the suit without further trouble. Dio, realizing that resistance was useless, paid one million sesterces, and was deprived of his stable of fine horses, his silver plate, and valuable tapestries. He afterward attained some degree of satisfaction when, having received Roman citizenship, he appeared as an important witness for the state at the trial of Verres.<sup>5</sup>

A similar case was that of the brothers Sosippus and Philocrates of the town of Agyrium, who at the death of their father in the year 92 were also bound by a forfeiture to Venus in case of non-performance of any of the terms in the will.<sup>6</sup> In the second year of Verres's *propraetorship*, a claim to the estate was set up in the name of the goddess, and this time through the agency of another satellite, Volcatius, the governor forced the

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<sup>1</sup> II, 19, 20.

<sup>2</sup> I, 27, 28; II, 21.

<sup>3</sup> II, 22.

<sup>4</sup> *Ps. Ascon.*, p. 261 (Stangl).

<sup>5</sup> II, 23, 24.

<sup>6</sup> II, 25.

brothers to purchase a settlement for 400,000 sesterces. Verres's only defense was that the money had been paid not to him personally but to Volcatius,<sup>1</sup> an alibi so weak as to call forth Cicero's keenest ridicule.<sup>2</sup>

An almost absolute control of legal decisions and of the machinery of the courts was easy to attain by the simple expedient of appointing subservient judges. As we have seen, the *Lex Rupilia* contained definite provisions covering the personnel of the judiciary.<sup>3</sup> These provisions Verres constantly overrode in his appointments,<sup>4</sup> and by threatening to investigate unsatisfactory decisions and to punish the offending judges, he of course practically dictated the verdicts.<sup>5</sup> Even the decrees of provincial senates were thus influenced; the special tribunals provided for by the *Lex Hieronica* were abolished by a single edict;<sup>6</sup> no judges were appointed from the citizens of the separate judicial districts or *conventus*.<sup>7</sup> Thus complete was the power which a provincial governor exercised over the administration of the courts, especially when he considered himself bound by no previous law, edict, or precedent.

Heraclius of Syracuse, son of Hiero, a man of noble family and great wealth, was Verres's next victim, being unfortunate enough to attract the governor's attention by the circumstance of having been made beneficiary under the will of another wealthy man of the same name.<sup>8</sup> The inheritance was of the value of three million sesterces, including silver plate, tapestries, and valuable slaves. Failing in his favorite trick of "borrowing" such valuables with no intention of returning them,<sup>9</sup> the praetor had recourse as usual to his faithful "Dogs." Two of them, Cleomenes and Aeschrio, who were supposed to be particularly influential with their master because scandal connected his name with their wives, furnished the needful advice. Heraclius, they

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<sup>1</sup> II, 26.

<sup>2</sup> II, 27.

<sup>3</sup> See p. 29.

<sup>4</sup> II, 30-32.

<sup>5</sup> II, 33.

<sup>6</sup> II, 34.

<sup>7</sup> Cf. Ps. Ascon. p. 264 (Stangl).

<sup>8</sup> II, 35.

<sup>9</sup> II, 36.

said, was a man well along in years, with no friends at Rome except the Marcelli. A provision of the will under which he was heir bound him to the erection of certain statues in the palaestra of Syracuse, with the usual *poena* of forfeiture of the inheritance—in this case to the palaestra itself—in the event of failure to carry out the will. The way was thus open to bringing another suit on the ground of non-performance, similar to those in which Dio and the Agyrian brothers had been defendants. It was a simple matter to produce witnesses from the palaestra who asserted that the statues had not been erected in strict accordance with the terms of the will, and who consequently claimed the inheritance for the palaestra. Verres came to Syracuse prepared to assign judges for the case who met his peculiar qualifications,<sup>1</sup> but Heraclius pointed out that by the terms of the *Lex Rupilia* they could not be appointed until thirty days after the action was brought. As this was in the latter part of the year 73, Heraclius hoped that Q. Arrius, the new *propraetor*, would arrive before any appointment could be made. But Arrius was delayed, and died before reaching the province; Verres remained in office, and the day of the appointment arrived. In spite of the objections of the defendant, who insisted upon judges meeting the requirements of the *Rupilian law*,<sup>2</sup> the governor arbitrarily appointed five men whom he could trust to aid his schemes,<sup>3</sup> and the court was adjourned for the day.<sup>4</sup> Heraclius, seeing the hopelessness of his plight, fled from Syracuse that night. When the governor impatiently demanded his condemnation *in absentia*, even his own creatures hesitated at such a measure, but Verres, announcing that he had decided to appoint his judges according to the law of *Rupilius* after all, drew the names of three men out of the urn and commanded them to condemn the absent Heraclius. "And so," Cicero laconically adds, "they condemned him."<sup>5</sup> Possession was

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<sup>1</sup> II, 37.

<sup>2</sup> II, 38.

<sup>3</sup> II, 39.

<sup>4</sup> II, 41.

<sup>5</sup> II, 42.



immediately awarded to the palaestra not only of the inheritance of three million sesterces which was in question, but also of the defendant's own paternal property, which was of equal value.<sup>1</sup> Notwithstanding that the verdict was ostensibly in favor of the palaestra—or in reality, the people of Syracuse—the first move in executing the sentence was to carry to the governor all the silver plate, the tapestries, and such of the slaves as he fancied.<sup>2</sup> Many of his friends were presented with gifts and money, which were even specified in the accounts rendered to the Syracusan senate. But at the item “300,000 sesterces presented by order of the praetor,”<sup>3</sup> even those who were beneficiaries of the suit and, in a way, partners in the crime, objected to such wholesale confiscation, and the senate adjourned in an uproar. Verres, realizing that the populace was perfectly well aware of the whereabouts of the 300,000 sesterces, and seeing that he must act quickly, forthwith accused his son-in-law and promised that he would compel the young man to restore the sum.<sup>4</sup> The latter in disgust defended himself publicly and then left the province, after which the money was promptly “refunded” to the Syracusans, and as promptly returned to Verres's hands “through the back door.”<sup>5</sup> As an expression of the gratitude which the people of

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<sup>1</sup> II, 45.

<sup>2</sup> II, 46.

<sup>3</sup> II, 47.

<sup>4</sup> II, 48.

<sup>5</sup> II, 50. For a very detailed and minute discussion of this case, see Holm, *Geschichte Siciliens* III, pp. 411–414. He endeavors to show that Verres was entirely within the strict interpretation of the *Lex Rupilia* in his conduct of the case, and represents him as “a very patient judge who met all the obstacles set up by Heraclius,” but who was finally outwitted by the wily defendant. “It was really,” says Holm, “the case of a fox against a wolf, in which the wolf, though outmanœuvred, eventually gained the spoils.”

Holm divides the *Lex Rupilia*, as enunciated by Cicero in II, 32, into six separate provisions, of which only the second, third, and sixth are involved in this case. These are as follows:

(2) *Quod Siculus cum Siculo non ejusdem civitatis, ut de eo praetor judices ex P. Rupilio decreto, . . . sortiatur.*

(3) *Quod privatus a populo petit aut populus a privato, senatus ex aliqua civitate qui judicet datur, cum alternae civitates rejectae sunt.*

Syracuse owed M. Claudius Marcellus, they had set up in the senate house a bronze statue in his honor<sup>1</sup> and had instituted a festival, the Marcellia, called by his name. Verres, not to be outdone, saw to it that a golden statue was soon put in place in

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(6) *Celerarum rerum selecti iudices ex civium Romanorum conventu proponi solent.*

The procedure in the case he analyses as follows. "First Verres wishes to choose *iudices* by lot. 'But,' says Heraclius, 'you must wait thirty days.' So Verres waits, and when the thirty days are up and he wishes to proceed to the lot, then Heraclius says, 'Wait, we are proceeding under section 3 (*populus a privato*), where no choice by lot is provided.' 'Good,' says Verres, 'we shall not choose by lot. But we are proceeding not under section 3, but section 6. I will choose five judges.' In other words, the lot to which Heraclius had tacitly agreed by asking only its *postponement*, is objected to by him when Verres is ready to proceed to it. This adroit move on the part of the 'fox' is, however, perfectly clear." But Holm regards as false Cicero's statement that at this point the *adversarii* entered the claim *ut in eam rem iudices dentur ex iis civitatibus quae in id forum convenerant, electi qui Verri viderentur*, a demand nowhere covered by the *Lex Rupilia*. "For by making an illegal demand, the *adversarii* would be defeating their own ends. And even if the demand were granted, they would still come to grief, for the *electi ex civitatibus* would not have condemned Heraclius. Therefore they never made such a demand, but much more probably appealed to section 6, for if Verres appointed *iudices ex civium Romanorum conventu*, (i.e., as he construed it, from his own cohort) Heraclius was lost. Under section 6, Verres had a perfect right to appoint the five *iudices*, as he did. The next day, upon the non-appearance of the defendant, the five *iudices* declined to condemn him, which looks as if they really were legally chosen Roman citizens (not from the praetor's cohort) and forced upon Verres against his will. Now, says Cicero (II, 42) *eo accedebat quod iudices ex lege Rupilia dati non erant*. But if section 6 is valid here, then the judges *were* so chosen, and Cicero's statement is not true."

"Cicero states that Heraclius had begged with tears for a *sortitio* the day before. If he did, he took a false course, for in such a plea he necessarily appealed to section 2, where occurs the only mention of *sortiri*. But section 2 does not, by its own wording, apply to this case. Yet if Verres proceeded to the *sortitio* and Heraclius then decided that he did not wish it, the latter had only himself to blame." To the statement in II, 39, [Verres] *negavit, se iudices e lege Rupilia sortituros*, which Cicero cites as an indication of his illegal purpose in the matter, Holm gives an entirely different significance by interpreting it thus: "Verres said that (if he so proceeded to

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<sup>1</sup>An inscription found at Tauromenium, with the name Γαῖος Κλαύδιος Μάρκου υἱὸς Μάρκελλος, seems to refer to this Marcellus (Inscr. Graec. ad res Rom. pertinentes, I. 2, No. 489).

the senate to honor himself, and another for his son<sup>1</sup>, and that a triumphal arch was built in the forum, decorated with his son's figure and an equestrian statue of himself<sup>2</sup>. He was even powerful enough to abolish the Marcellia during his term of office and

choose the judges, i.e., by lot) he would not be proceeding according to the *Lex Rupilia*. So Heraclius first postponed the *sortitio*, then refused it, then demanded it again, and when it actually took place he was not present.

Cicero himself shows in his conduct of the case an extraordinary talent for bringing in the irrelevant. Was it ignorance of the law, or was it the disingenuousness of the pettifogger? Probably a little of both."

"In II, 44 he says, *Negare non potes te ex lege Rupilia sortiri iudices debuisse, cum praesertim Heraclius id postularet. Sin illud dices, te Heraclii voluntate ab lege recessisse, ipse te impedit. . . . Quare enim primum ille adesse noluit, cum ex eo numero iudices haberet, quos postularet? deinde tu cur post illius fugam iudices alios sortitus es, si eos, qui erant antea dati, utriusque dederas voluntate?* Who would have suspected that Heraclius and Verres were, for the time being at least, in collusion, if Cicero himself had not thus naïvely revealed it to us? That is to say, the 'tearful pleadings' of Heraclius are a pure invention, and the latter, on the contrary, really gave his consent by silence to the praetor's appointment of the five judges. But it is even more probable that this temporary agreement was only another trick of the 'fox' for the purpose of making Verres feel more secure and his own flight easier of accomplishment."

Holm's argument is ingenious, and succeeds in showing that Verres's position was not so legally unsound as Cicero represents it to be. The weak point in the argument is his interpretation of *negavit se iudices e lege Rupilia sortiturum* (II, 39) which to my mind, is impossible to extract from the Latin as it stands. It forces us to read too much into the clause. If Verres had meant, "If I select judges by lot, I shall not be proceeding according to the *Lex Rupilia*," he would have used "*acturum*" or some such general idea, rather than "*sortiturum*," which belongs in the conditional clause that Holm would have us supply.

Neither can I agree with Holm that the evidence is sufficient to show collusion between Verres and the defendant. His own uncertainty in the matter is shown by his supposition that it may have been a subterfuge on the part of the "fox."

Granting that Cicero's enumeration of the provisions of the *Lex Rupilia* in II, 32 is complete, and a quotation from the statute itself, giving its exact wording, the whole question of the legality of Verres's conduct of the case revolves around section 6. Holm is undoubtedly correct in concluding that the case fell under this section and that the praetor therefore was, for the most part, within the strict letter of the law. That his position was *ethically* sound no one, of course, would attempt to show.

<sup>1</sup> II, 50.

<sup>2</sup> II, 154.

to substitute a new festival, the Verria, issuing contracts for providing the necessary sacrifices and feasts for years to come.<sup>1</sup> The new festival is also mentioned as being celebrated in Messana<sup>2</sup>.

Very similar to the case of Heraclius was that of Epicrates of Bidis, a small town near Syracuse.<sup>3</sup> Epicrates too attracted the governor's attention because he was beneficiary under a will by which he came into an estate of half a million sesterces. The satellites of Verres arranged with those in charge of the palaestra at Bidis to claim the inheritance. As soon as the governor received word of this new booty, he immediately advanced a claim upon the Bidini for 80,000 sesterces as a sort of advance fee in consideration of the advantages which were to accrue to them.<sup>4</sup> This sum they paid to the same Volcatius who had acted as treasurer of Verres before. Epicrates, remembering Heraclius, fled to Rhegium even before any action had been formally brought or any judge appointed.<sup>5</sup> Those who had made the advance payment to Verres were immediately alarmed lest it should prove impossible to bring the suit in the man's absence. In desperation they even followed Epicrates to Rhegium with the surprising demand that he make up to them the amount they had paid, taking such security as he liked that none of them should be involved in bringing a suit against him with regard to the inheritance. This demand Epicrates naturally refused.<sup>6</sup> The disappointed investors returned to Syracuse and noised it about that they had paid out 80,000 sesterces for nothing. Verres, with great show of justice, ordered Volcatius to refund the money, and this was done. Yet no punishment was ever visited upon the would-be bribers or upon him who received their money,<sup>7</sup> while the money which had just left the propraetor's house "by the main road" soon returned "by a by-path." Then the main business proceeded, and the Bidini claimed the estate, bringing the charge that Epicrates had fled for the purpose of cheating them.<sup>8</sup>

<sup>1</sup> II, 51, 154; IV, 151.

<sup>2</sup> IV, 24.

<sup>3</sup> II, 53.

<sup>4</sup> II, 54.

<sup>5</sup> II, 55.

<sup>6</sup> II, 56.

<sup>7</sup> II, 57, 58.

<sup>8</sup> II, 59.

When this failed, the charge was trumped up that the man had tampered with the public records.<sup>1</sup> When it became evident that the governor was again determined to over-ride law and precedent, the friends of Epicrates ceased to plead, and the inheritance, together with his independent fortune of 1,500,000 sesterces, was awarded to the Bidini, the inference being unavoidable that the *propraetor* received his share.<sup>2</sup> Both Epicrates and Heraclius in hope of getting satisfaction, went to Rome where they remained during the rest of Verres's tenure of office, but returned to the island with L. Metellus, his successor.<sup>3</sup> The latter rescinded the judgments against both men, but the vindication came too late to save all of their property. Everything movable was gone. Metellus even imprisoned such of the Syracusan senators as Heraclius accused of complicity in the affair, and also reversed certain judgments which had been pronounced at Lilybaeum, Agrigentum, and Panormus.<sup>4</sup>

Further intimidation of the judiciary was effected in the case of Heraclius of Centuripae, who had been fraudulently sued for 100,000 sesterces.<sup>5</sup> Through manipulation of the securities deposited as evidence of good faith by the parties to a trial,<sup>6</sup> Verres contrived to extort 400,000 sesterces, and the unfortunate judge who had decided the case in favor of the defendant, thus cutting Verres out of his profit, felt the wrath of the governor. The latter not only invalidated his decision, but forbade him access to the senate and public places and decreed that he would allow any action against the man, but would not permit him to sue any person in return, even though he were grossly maltreated.<sup>7</sup> So dangerous was it thus made for a man even to be a

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<sup>1</sup> II, 60.

<sup>2</sup> II, 61.

<sup>3</sup> II, 62.

<sup>4</sup> II, 63, 140.

<sup>5</sup> II, 66.

<sup>6</sup> By the process called *Compromissum*. It constituted an agreement between the disputants to submit the question to an arbiter, and a penalty (*poena*) was provided if either party refused to abide by his decision. Cf. Greenidge, *op. cit.*, p. 544.

<sup>7</sup> II, 67.

judge, that the propraetor's control of the bench was yet more absolute than it had been previously.

If it was profitable to take money from one side in a suit, it was even more profitable to take it from both sides. A wealthy citizen of Halicyae, Sopater by name, had been tried on a capital charge before C. Sacerdos, Verres's predecessor, and easily acquitted.<sup>1</sup> His accusers renewed the charge before Verres. Sopater was not greatly disturbed, relying upon his established innocence and the prestige of the former praetor's decision in his favor. The case was brought however, and Q. Minucius, a Roman *eques*, acted as attorney for the defense.<sup>2</sup> In the meantime Sopater was approached by Timarchides, a freedman and a faithful member of the governor's pack of "Dogs," and was advised by him not to rely too much on the verdict in the first case. For it appeared that the prosecution was considering the purchase of a verdict against him, but that the praetor would prefer to be paid for an acquittal. Sopater, taken by surprise and being temporarily involved in financial straits, was unable to return an immediate reply to this unexpected demand, but after consultation with his friends, decided to be discreet, came to terms with Timarchides on a basis of 80,000 sesterces, and paid him the cash. But the confidence thus engendered was short lived. The next day the governor's agent called again with the news that the prosecution would pay a much higher figure and that Sopater might do as he pleased.<sup>3</sup> The latter in disgust refused to be further exploited, still hoping for a just verdict because of the fact that some of the same jurymen who had acquitted him in the first trial were also sitting on the present case. These would hardly dare to vote contrary to their former decision, as no new evidence had been introduced. One of them, a certain M. Petilius, was at the same time a *judex* in a private case which was pending, and Verres got rid of him by ordering him to proceed in this other case.<sup>4</sup> To the objection of

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<sup>1</sup> II, 68.

<sup>2</sup> II, 69.

<sup>3</sup> II, 70.

<sup>4</sup> II, 71.

Petilius that still others of the jurors were involved in the adjudication of the *res privata*, Verres replied that he did not wish to detain any of those who preferred being with Petilius. This broad hint was sufficient; the men left the court, and the last obstacle in the praetor's way was removed. To the surprise of Minucius, he was peremptorily ordered to state his case.<sup>1</sup> But the defendant's attorney had the presence of mind to refuse, on the ground that no jury was now sitting, and forthwith left the court,<sup>2</sup> followed by all the other friends and advocates of Sopater except the Sicilians. This adroit move put the praetor in a most difficult position. On the one hand was the prospect of an adjournment and the possible acquittal of the defendant on the morrow by the jurors who would have then returned; on the other hand even he feared the unpopularity consequent upon the condemnation of an undefended man, the responsibility of which could not be shifted from his own shoulders.<sup>3</sup> But being openly encouraged by Timarchides, he ordered Sopater to speak for himself.<sup>4</sup> One or two witnesses were summarily examined, no questions were asked, the case was closed, the man was condemned by the formal acquiescence of three of Verres's retinue, and the governor hastily declared the court adjourned. Nor did he even take the trouble to return the 80,000 sesterces with which Sopater supposed he had purchased immunity,<sup>5</sup> but simply added that to the price which the other side had paid him, making this verdict doubly profitable. The only defense which Cicero represents him as making later at Rome was the claim that it could not be proved that he had received the money.<sup>6</sup>

But perhaps the most notorious case of this sort was that of Sthenius of Thermae,<sup>7</sup> a wealthy citizen whose hospitality the governor had repeatedly enjoyed. Sthenius had been a diligent collector of objects of artistic value and great intrinsic worth. His house contained beautiful bronze work, imported from Delos

<sup>1</sup> II, 72.<sup>2</sup> II, 73.<sup>3</sup> II, 74.<sup>4</sup> II, 75.<sup>5</sup> II, 78.<sup>6</sup> II, 80.<sup>7</sup> II, 83.

and Corinth,<sup>1</sup> paintings, and wrought silver. Of these Verres gradually obtained possession by begging, demanding, and openly seizing.<sup>2</sup> Sthenius, smothering his indignation, bore his losses in silence. There were in the public place at Thermae a number of fine antique statues which next excited Verres's interest, and he requested the heretofore complaisant Sthenius to use his influence in the senate of Thermae in obtaining them for the governor's collection.<sup>3</sup> But the man, unwilling to see his home city plundered, declined, for the statues had a sentimental interest entirely aside from their value, having been originally the property of the citizens of Himera.<sup>4</sup> When the Carthaginians took the city, all the statues were removed, but Scipio, after the fall of Carthage, following out his policy of returning their property to the Sicilians, brought the statues back to the island instead of taking them to Rome.<sup>5</sup> But Himera had been destroyed and its citizens who survived had settled at Thermae near by.<sup>6</sup> So their ancestral works of art were restored to them in their new home and duly set up there. Among these were a fine representation of their patron goddess, Himera herself, a portrait statue of the poet Stesichorus, an honored citizen of the place,<sup>7</sup> and lastly a beautiful image of a she-goat, besides many other subjects.<sup>8</sup> The praetor's claims to these treasures were debated in the senate of Thermae, and Sthenius eloquently pleaded that death itself was preferable to tame submission to such a demand.<sup>9</sup> Verres in a rage renounced his connection of friendship with the

<sup>1</sup> On the Delian bronzes, cf. Pliny N. H. XXXIV, 2.

<sup>2</sup> II, 84.

<sup>3</sup> II, 85.

<sup>4</sup> II, 86.

<sup>5</sup> See p. 29. A Greek inscription found at Thermae, referring to the return of such statues by Scipio, was thought by Mommsen to have been cut in the stone of the figures after their return. (Inscr. Graec. ad res Rom. pertinentes, I, 2, No. 504).

<sup>6</sup> On the history of Himera, see Diodorus XI, 48; Polybius I, 24.

<sup>7</sup> Cf. Pausanias III, 19, 13.

<sup>8</sup> II, 87. The three statues here mentioned are represented upon the coins of Thermae. See Cat. Brit. Museum, p. 84, No. 7, No. 9; Head, *Historia Numorum*<sup>2</sup> (1911) pp. 146, 147.

<sup>9</sup> II, 88.



man, left his house and accepted the hospitality of Agathinus and his son-in-law, Dorotheus, who, for some reason not specified, were bitter enemies of Sthenius.<sup>1</sup> And so fascinated was the governor with the charms of Callidama, wife of Dorotheus, that he almost forgot the beautiful Himera which he coveted. Upon his statement to his hosts that he would admit any charge which they cared to bring against Sthenius, they promptly brought in the accusation that the latter had tampered with the public records.<sup>2</sup> Sthenius demanded a trial, as provided by the *Lex Rupilia*, at the hands of his fellow citizens. Verres replied that he would hear the case himself, and it became noised about, through the inability of Callidama to keep the secrets which her new lord confided to her, that the governor would be satisfied only by an actual scourging of the defendant.<sup>3</sup> The latter lost no time, but fled forthwith to Rome. The day appointed for the trial was spent in searching for the defendant.<sup>4</sup> The next day Agathinus was ordered to state the case against Sthenius, which he did, but failed to adduce any weighty evidence in support of it. Whereupon without further formalities, the defendant was commanded to pay a fine of 500,000<sup>5</sup> sesterces to Venus Erycina, and enough of his property was sold at auction to pay the specified sum. Not satisfied, Verres announced that he was ready to receive a capital charge against Sthenius, and endeavored to

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<sup>1</sup> II, 89.

<sup>2</sup> II, 90.

<sup>3</sup> II, 91.

<sup>4</sup> Ibid.

<sup>5</sup> II, 93. This is the reading of all the Mss. (*quingenties*), but has often been objected to as unbelievably great. Zumpt, to make the source of the alleged corruption more plain, indicates the figure by the symbols HS IC, which could easily be mistaken by a copyist for HS D. Orelli, Klotz, and Long adopt the conjecture. But enormous though the sum is, it is not inconsistent with some of the other fines imposed, notably in the cases of Heraclius of Syracuse and Epicrates of Bidis. Confusion in these numerals is very common in the Mss. and the fact that in this instance there is unanimity makes the reading the more difficult to discard. Of course the exact figure is immaterial. That it was a very large sum, is certain.

influence Agathinus to bring such a charge.<sup>1</sup> The latter refused to go so far, but a plaintiff was found in the person of one Pacilius, who needed the money. The charge was brought and Sthenius, who had already reached Rome, was ordered to appear at Syracuse on December the first. But he succeeded in agitating the matter at Rome to such an extent that the consuls Cn. Lentulus and L. Gellius<sup>2</sup> introduced a bill in the senate prohibiting in the provinces the bringing of capital charges against any man in his absence,<sup>3</sup> a proposal which met with favor and seemed likely to pass. Then it was that the father of Verres interceded for his son with the other senators,<sup>4</sup> but without much success. He did succeed by the use of obstructive tactics in securing an adjournment for the day before a vote could be reached.<sup>5</sup> He then gave most emphatic assurances that he would see to it that Sthenius suffered no more at the hands of his son and that he would immediately despatch messengers to Sicily with word of warning. As it was still thirty days before the time when Sthenius had been cited to appear, the advocates of the latter were moved by the appeal of the elder Verres, and the bill was not brought to a vote.<sup>6</sup> Messages were sent, not only by the father of the governor but by many of his friends, in which he was apprised of the agitation in the senate and advised to quash the indictment against Sthenius. These letters arrived before the first of December, but were entirely disregarded by the praetor. On the appointed day he ordered the defendant to be summoned. Sthenius, of course, did not appear. For some reason which Cicero prefers not to mention, the accuser,

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<sup>1</sup> II, 94. A *res capitalis* was not necessarily a case in which the life of the prisoner was at stake, but might be one affecting his *caput* in the sense only of civil status or rights as a citizen. Cf. Thesaurus Ling. Lat. III, 344. Merguet (*Lex. zu den Reden des Cic.*, I, p. 453; *Handlexicon*, p. 96) curiously fails to note the distinction.

<sup>2</sup> Consuls for the year 72. The prosecution of Sthenius took place well along in the second year of the Sicilian administration.

<sup>3</sup> II, 95.

<sup>4</sup> See p. 2.

<sup>5</sup> II, 96.

<sup>6</sup> II, 97.

Pacilius, also failed to appear.<sup>1</sup> Nothing daunted, Verres pronounced judgment in the absence of both.<sup>2</sup>

This open contempt of outside interference gave fresh impetus to the agitation at Rome. The matter was again brought up in the senate. M. Palicanus, a plebeian tribune, made official complaint before the people, and Cicero himself acted as advocate of Sthenius before the *collegium* of the tribunes, who by edict had prohibited any man condemned on a capital charge from remaining in the city.<sup>3</sup> The tribunes, after hearing the case, declared that Sthenius was not obliged to leave Rome, thus virtually refusing to recognize the decision of Verres. News of this action somewhat alarmed the governor, and Cicero accuses him

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<sup>1</sup> II, 98. It may be that he had been bought off by agents of the virtuous Sthenius. It is altogether evident, both in this case and in the others already discussed, that Cicero purposely magnifies the supposed stainless innocence and virtue of the defendants, that the character of their persecutor may stand out the blacker. We have already seen that Sopater was ready to fight fire with fire (see p. 41, ff.), and the strain on our credulity is too great when we are asked to believe that any of the defendants supinely submitted to such robberies as are described. Holm has shown that in the case of Heraclius of Syracuse Verres was nominally within the law, and it seems altogether probable that the same may be true of some of the other cases, although the evidence is insufficient to prove such a supposition. Thus, with reference to the case of the Agyrian brothers (p. 33 ff.), Cicero nowhere expressly states that the provisions of the will had been carried out *in toto*, and that there was no legal basis for a suit on the ground of non-performance. Likewise in the case of Epicrates of Bidis (p. 39 ff.) it is perfectly possible that the *palaestritae* were on safe legal ground in the claim that the statues had not been erected absolutely in accordance with the specifications. Nothing is easier than to quibble about the execution of minute details in specifications, especially if in any particular it is left to the discretion of the contractor, as may have been the case here. Similarly the subsequent charges of fraud and tampering with the public records (p. 40) could be made plausible by specious interpretations of the law and the introduction of false testimony. With regard to the case of Sopater, cf. Zumpt, *Der Kriminalprozess der römischen Republik*, (Leipzig. 1871), pp. 12, 13.

Of course absolute proof is out of the question, since our sources of information are so closely limited to the prosecutor's oratory. Naturally he did not introduce any feature of any case which would militate strongly against his thoroughly consistent characterization of Verres as an unmitigated villain.

<sup>2</sup> II, 99.

<sup>3</sup> II, 100, 104, 105.

of altering the records of the case so as to make it appear that the defendant was present when the accusation was brought,<sup>1</sup> thereby stultifying himself in view of former declarations on his part that the law permitted a charge against a defendant in the latter's absence.<sup>2</sup> Thus the prosecutor adroitly dodged the question of the legality of the praetor's action, a fact which Cicero himself admits is "some sort of a defense."<sup>3</sup> That it at least had foundation in precedent is shown by the subsequent petition of the Sicilian cities to the senate that the practice might be abolished.<sup>4</sup> It was with greater success that Cicero attacked the appointment by Verres of C. Claudius, a Roman citizen, as advocate of Sthenius.<sup>5</sup> This of course constituted an open violation of the *Lex Rupilia*, by the terms of which a citizen of Thermae should have been appointed.<sup>6</sup> This Claudius was another of Verres's intimates, "a sort of colleague to Timarchides."<sup>7</sup> Out of the plunder the governor made an offering to Venus Erycina, which Cicero himself saw on the mountain, a silver Cupid on which appeared the name **STHENIVS THERMITANVS**.<sup>8</sup> A most florid eulogy of the character and standing of the defendant closes Cicero's discussion of the case.<sup>9</sup>

If the sale of judicial decisions was profitable, the sale of decrees in settlement of matters referred directly to the praetor, and of proclamations or edicts, was equally so.<sup>10</sup> Still another aspect of the commercial possibilities arising from the governor's great powers was the sale of public offices, of which the local senatorships were most popular.<sup>11</sup> Nor was it necessary that the

<sup>1</sup> II, 101.

<sup>2</sup> II, 102.

<sup>3</sup> II, 101. "*mala et improba defensione, verum aliqua tamen uti videretur.*"

<sup>4</sup> II, 103, 147.

<sup>5</sup> II, 106, 107.

<sup>6</sup> II, 108.

<sup>7</sup> Ibid.

<sup>8</sup> II, 115.

<sup>9</sup> II, 110-114.

<sup>10</sup> II, 119.

<sup>11</sup> II, 120, 121.

purchaser of the office be qualified by law to hold it. For instance, the city of Halaesa had a very definite code of regulations covering elections to its senate, a code which had been drawn up at the city's own request in B.C. 96 by C. Claudius Pulcher, expressly entrusted with this task by the Roman senate.<sup>1</sup> The age of eligibility was set at thirty years, and certain other qualifications in regard to occupation and income were specified, all of which had been carefully observed in the elections until Verres came to Sicily. But from him even a crier and boys of sixteen and seventeen purchased the title of senator. At Agrigentum similar regulations had been in force, with one additional qualification specified. Two social orders were to be found among the Agrigentines: the first comprised descendants of those inhabitants who antedated the Roman colonization under the praetor T. Manlius;<sup>2</sup> the second, descendants of the colonists whom Manlius brought thither from other Sicilian settlements. The law provided that a majority of the senators should never be elected from the latter class. A vacancy in the senate was caused by the death of one of the class of the original inhabitants, and his legal successor could only have been one from the same class, as the number of each became equal after the vacancy occurred.<sup>3</sup> But certain ones of the new class approached the governor with a bribe, thus forcing candidates from the class legally eligible to bid against them. One of the *novi homines* had more money at his disposal than did the opposition, and he secured letters of appointment, thus giving to his class the control of the senate. The Agrigentines protested, explaining their laws and the illegality of the selection, but received no satisfaction. The same thing happened at Heraclea, where local conditions and regulations were similar to those at Agrigentum.<sup>4</sup>

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<sup>1</sup> II, 122. Cf. p. 29.

<sup>2</sup> II, 123. Zumpt identifies him with the C. Mamilius mentioned by Livy (XXVII, 36) and sets this second colonization of Agrigentum in B.C. 207. The original settlement was Doric. (Thucyd. VI, 4; VII, 57.)

<sup>3</sup> II, 124.

<sup>4</sup> II, 125.

Nor was the traffic confined to senatorial offices alone, but extended also to magistracies, *curationes*, or commissionerships, and priestly orders.<sup>1</sup> At Syracuse the priest of Jupiter was annually chosen by lot from the three citizens selected as candidates by vote of the people. Verres had contrived to have his friend Theomnastus returned among the three, but the matter of the lot presented greater difficulty.<sup>2</sup> The simplest way out was to order Theomnastus appointed without the formality of the lot, but to this a strenuous objection was raised by those interested in seeing the matter decided legally and in order. At the praetor's command the law was read to him, to the effect that as many lots were to be cast into the urn as there were candidates nominated and that he whose name was drawn was to have the priesthood. "How many candidates were nominated?" asked the governor. "Three," answered the people. "It is not necessary, is it, to do anything more than cast three lots in and draw one out?" "No." So with a sort of grim humor, Verres ordered three lots to be put in the urn with the name of his favorite on each of them, whereupon one of the lots was gravely drawn and Theomnastus was declared chosen priest of Jupiter.

Even juggling with the calendar was resorted to in order not to disturb the technically legal aspect of some of his operations. At Cephaloedium, a small town on the north coast, east of *Thermae*, a certain month was specified by law as the one in which the high priest should be named.<sup>3</sup> A rich citizen of noble family and therefore eligible, Artemo Climachias by name, was desirous of the office, but despaired of attaining it because of the popularity of a rival, Herodotus, to whom public favor and opinion had already virtually conceded it. But Herodotus was at Rome, supposing that he had ample time to return before the election. Some fine silver embossed work passed from Climachias to Verres and the latter agreed to arrange the matter without unduly straining the legal provision in regard to the time of the

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<sup>1</sup> II, 126.

<sup>2</sup> II, 127.

<sup>3</sup> II, 128.

election, and also without refusing Herodotus the office when he was present—seemingly a difficult undertaking. But the governor was both clever and experienced. The Greeks had early encountered the difficulty of synchronizing twelve lunar months with a solar year, and one method of meeting the difficulty was to subtract a day, sometimes two days (called *ex-haeresimi dies*) from a month, and at other times to lengthen a month by a day or two.<sup>1</sup> So Verres gave orders, not to take a day out of a month, but for a month and a half to be taken out of the year, so that if the day fell, for instance, in the middle of January, he would thereby make it the first of March. On this spurious date Climachias was declared elected to the priestly office. Herodotus returning later from Rome, fifteen days before the *comitia*, as he thought, was surprised to find that the election had taken place thirty days before.<sup>2</sup> So the people of Cephaloedium were forced to vote an intercalary month of forty-five<sup>3</sup> days in order to offset Verres's disarrangement of their calendar.

The office of censor was a particularly important and responsible position in Sicily because of the provincial system of taxation. Aside from the *vectigalia* which were paid to Rome, the expenses of the provincial government were met by a direct annual tax upon personal property, the basis of its valuation being the assessments made every five years by the censors.<sup>4</sup> This influential office was naturally much sought. Candidates were carefully scrutinized by the electors whose property they proposed to assess, and the final choice was the object of great popular interest. The governor declared that "in order to check unbridled ambition and desire for office, which usually proves the ruin of a state," he would himself appoint the censors in every

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<sup>1</sup> II, 129. For a complete discussion of the Greek calendar see Schmidt und Rühl, *Handbuch der griechischen Chronologie* (1888).

<sup>2</sup> II, 130.

<sup>3</sup> Halm, Kayser, Klotz, and Müller (following Ms.  $\phi$ ) all read XXXV; all others XLV. I have adopted the latter reading in view of the fact that it seems impossible to reconcile the former with *unum dimidiatumque mensem* in the preceding section.

<sup>4</sup> II, 131, 139.

city.<sup>1</sup> It was virtually the announcement of an auction in offices, and candidates for the censorship with their purses well filled, flocked to Syracuse,<sup>2</sup> so that the praetor's house could hardly contain the throng. The useful Timarchides represented his chief, and after open solicitation and numerous conferences, announced the appointments—two for each city, a hundred and thirty in all.<sup>3</sup>

Of course we are not asked to believe that the governor's factotum labored only for the joy of serving. His share was definitely apportioned. This Sicilian freedman was really the leader of the pack of "Dogs," and he was as versatile as he was able.<sup>4</sup> As the governor's procurer, he played a prominent part in the amorous adventures in which Verres delighted, and as his go-between in arranging bribes and attending to the details of his questionable operations of every sort, Timarchides made himself well nigh indispensable,<sup>5</sup> and of course enriched himself greatly. Cicero even states that for three years he was the *de facto* ruler of Sicily.<sup>6</sup>

It was legally permissible to ask censors to contribute to a fund for erecting statues of the praetor under whom they served.<sup>7</sup> This constituted an opportunity for gain with little risk attached, as an official could be prosecuted for misappropriation of the funds only in case he had not spent the full amount for the specified purpose at the end of five years.<sup>8</sup> So the hundred and thirty<sup>9</sup> newly appointed censors were each asked to contribute 300 denarii or 1200 sesterces, in addition to the prices which they had supposedly paid for their appointments, and from this levy the sum of 156,000 sesterces was thus realized. Of course they found abundant opportunity to reimburse themselves by

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<sup>1</sup> II, 132.

<sup>2</sup> II, 133.

<sup>3</sup> II, 137.

<sup>4</sup> II, 134.

<sup>5</sup> II, 135.

<sup>6</sup> II, 136.

<sup>7</sup> II, 137.

<sup>8</sup> II, 142.

<sup>9</sup> This number shows that there were 65 *civitates* in the province in Cicero's time. Cf. p. 29, n. 3.



judicious use of the power of their offices, lowering the assessments of the wealthy, for a price, and raising those of the poor. The census thus made up was so unjust and so impossible as a basis of taxation, that L. Metellus when he succeeded Verres in the governorship, ordered it set aside, and the census of Sextus Peducaeus, praetor five years before, made the basis pending a new assessment.<sup>1</sup>

In addition to the contribution of the censors, Verres extorted a vast sum from various cities,<sup>2</sup> ostensibly for the erection of other statues to himself. Of course the five-year limitation had not expired at the time of the trial, and the governor was therefore not yet legally accountable for these unexpended funds. The evidence with regard to them, as introduced by the prosecutor, was thus, from a strictly legal standpoint, entirely irrelevant. The probability was of course very great that no accounting ever would be made, and as this oration was not actually delivered in court, Cicero may be pardoned for the desire to hand down all his evidence to posterity and to strengthen his case by every possible means. Some of the statues were actually erected, especially at Syracuse, where likenesses of the governor, his father, and his son adorned the forum, the senate house and "every place."<sup>3</sup> Others, paid for by Syracusan funds, were erected at Rome.<sup>4</sup> That the burden of the extortions under this pretense was felt by the provincials in general, is shown by the item in their subsequent plea to the consuls "that they might

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<sup>1</sup> II, 138.

<sup>2</sup> II, 139.

<sup>3</sup> Variouslly stated in different Mss. The lowest figure is 120,000 sesterces; the highest, 3,000,000, is Zumpt's conjecture. The actual sum was probably between these two extremes, but nearer to the larger figure than the smaller. Zumpt defends his reading *trictes* on the ground that the one city of Centuripae furnished 300,000 (his reading in §143), one tenth of the entire amount. Müller reads *HS viciens* or 2,000,000. Confusion in these numerals, as already noted, is common in the Mss. Cicero himself a little later (II, 153) confesses that he had been unable to ascertain the exact amount. "*Et hujus pecuniae . . . non habui rationem neque habere potui.*"

<sup>4</sup> II, 145, 154.

<sup>5</sup> II, 150.

not in the future promise statues to any man until he had departed from the province."<sup>1</sup> Under pressure from the governor, such inscriptions as PATRONVS and SOTER were carved on the pedestals of the statues at Syracuse, and the legend A COMMVNI SICILIAE DATA appeared on those at Rome.<sup>2</sup> Any claim that the statues and inscriptions were set up voluntarily by a grateful people, Cicero demolishes by the presentation of two facts : first, the Sicilian cities were nearly all represented at the trial by chosen citizens, who presented evidence against the praetor and brought official complaint against his administration,<sup>3</sup> in spite of the efforts of his friends to prevent their appearance ; second, the statues in the public places and some even in temples were forcibly thrown down by the enraged provincials,<sup>4</sup> and these Cicero himself saw lying dishonored on the ground. This wilful destruction was the more significant because of the religious superstition of the Greeks with regard to the sacred character of such statues and monuments.<sup>5</sup> At Tauromenium the pedestal was left standing in the forum as a mute testimonial of the forcible removal of the statue which had stood upon it.<sup>6</sup> At Tyndaris, where an equestrian statue had been erected, the same action was taken, and the horse was left without a rider. The statue at Leontini was removed.<sup>7</sup> At Syracuse a mob went about the city and even into the sacred precincts of the temple of Serapis, pulling down and overturning the numerous statues heretofore alluded to. If Metellus had not interfered and by a positive edict forbidden further violence, hardly a trace of the images of Verres would have remained on the island. All this was done before he even reached Italy. At Centuripae the

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<sup>1</sup> II, 146, 148, 156.

<sup>2</sup> II, 154, 167.

<sup>3</sup> II, 155, 156.

<sup>4</sup> II, 157, 158.

<sup>5</sup> II, 159. Cicero cites the case of the Rhodians who, in the first war with Mithridates, (cf. Appian, *Mithrid.*, c. 24) left the statue of their enemy standing in a public place of the city (B.C. 88.).

<sup>6</sup> II, 160.

<sup>7</sup> *Ibid.*

action was more deliberate. There the senate decreed that the quaestors should let a contract for taking down the statues of Verres, his father, and his son, and that while the demolition was proceeding there should be present not less than thirty senators.<sup>1</sup> The decree was duly executed, and news of the occurrence reached the ears of Metellus. The new praetor was very indignant, summoned the magistrates of Centuripae and ten leading citizens, and threatened them with severe measures if the statues were not replaced.<sup>2</sup> The restoration was made, but the decrees ordering the removal of the statues were never rescinded and remained in the public records.

Timarchides had another able assistant in the person of one L. Carpinatius, a field agent of one of the numerous *societates* or corporations of Roman *publicani*, formed for the purpose of farming provincial revenues. The company in which Carpinatius was interested had bought the right to collect both the *scriptura* (payments made by those who pastured their herds on public land), and *portoria* (export duties).<sup>3</sup> Carpinatius gradually worked his way into the good graces of the governor, until he became Verres's agent in a most ingenious scheme for extorting more money from those who purchased offices. To such of these as were unable to pay cash down, Carpinatius was in the habit of loaning funds at usurious rates. These funds, ostensibly his own, were secretly furnished him by Verres through Timarchides or his secretary. Thus the luckless borrower was charged with a high annual payment of interest on a sum of which he never had the use.<sup>4</sup> Before Carpinatius had arrived at such a comfortable understanding with the praetor, he had made frequent reports to the shareholders in the company complaining against the illegal operations of Verres, and these complaints had been seconded by those of Canuleius, another agent of the same company in charge of the collection of *portoria* at the harbor of

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<sup>1</sup> II, 161.

<sup>2</sup> II, 162.

<sup>3</sup> II, 169, 171.

<sup>4</sup> II, 170, 176.

Syracuse.<sup>1</sup> Canuleius reported evasion by the governor of export duties on numerous and valuable consignments of Sicilian plunder. There was thus on file in the records of the company a considerable mass of valuable evidence against Verres which Carpinatius came to realize was a source of danger. Therefore, in order to offset the effect of this previous correspondence, he began to send reports of the most eulogistic character in regard to the praetor's services to the company, and at the end of the third year he wrote asking them to meet the returning Verres with an enthusiastic reception, thus expressing their gratitude.<sup>2</sup> The shareholders decided that it was in the interests of their business to comply, the reception was duly carried out, and Verres made a speech extolling Carpinatius. Then calling aside his friend, the president of the company, he expressly charged him to see to it that the dangerous correspondence was properly disposed of.<sup>3</sup> Having gotten rid of the majority of the company's shareholders as too unwieldy a body, the president called a meeting of the directors, and by their vote the offending letters were removed. Some of these directors later discovered the duplicity of their agent Carpinatius, whose efforts had not been so entirely in the service of the company as he wished them to believe. These directors Cicero professes to be able to produce as witnesses to the resolution to destroy the letters.<sup>4</sup> Nor was all documentary evidence lacking of the fact that the interests of the company had suffered at the hands of the praetor who posed as its benefactor. The letters of Canuleius had mentioned great quantities of gold, silver, ivory, purple, much cloth from Melita, tapestries, Delian ware, Corinthian vessels, grain, and honey as having been exported without any payment of the taxes due the company.<sup>5</sup> These letters were of course not available. But Cicero ascertained that a certain L. Vibius had also been collector

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<sup>1</sup> II, 171.

<sup>2</sup> II, 172.

<sup>3</sup> II, 173.

<sup>4</sup> II, 175.

<sup>5</sup> II, 176.

for the company and, as such, was in possession of copies of some of the records of Canuleius, made during his term of office. By taking Vibius off his guard, Cicero surprised him into producing these—two small books containing the items of Verres' exports for several months, on none of which had any *portorii* been paid. Among these were mentioned four hundred amphoræ of honey, quantities of garments from Melita, fifty banquet couches, numbers of candelabra.<sup>2</sup> By these exportations during a few months only, Canuleius wrote that the company had lost 60,000 sesterces, which would have been the amount of its customary tax of five per cent on the valuation.<sup>3</sup> The full value of the consignments described would be 1,200,000 sesterces, all exported in a few months from one port, a slight indication of the magnitude of the governor's operations, when the number of ports and their accessibility is considered. Doubtless at least a portion of this plunder was to be used in judicious gifts to friends and acquaintances, with an eye to securing their good office for the future.<sup>4</sup>

Finally, by documentary evidence it was shown that Carpinatius, in order to cover up the tracks of Verres in the money loaning transactions, had falsified his records by erasures and substitutions. For Cicero, while visiting the island for evidence against the praetor, had seen these same accounts at Syracuse and had noticed repeatedly the name of one *Verrucius*, from whom Carpinatius professed to have received his funds. But in every case, after the fourth letter of the name there was evidence of erasure of the original letters and the substitution of others indicating that Carpinatius, grown cautious, had thus crudely altered the name *Verres*.<sup>5</sup> As the *publicani* were not obliged to produce their accounts in Rome, Cicero, in order to have an official record of the matter, summoned Carpinatius before the new

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<sup>1</sup> II, 182.

<sup>2</sup> II, 183.

<sup>3</sup> II, 185.

<sup>4</sup> II, 183.

<sup>5</sup> II, 187.

praetor, Metellus. There the prosecutor stated the recurrence of the name Verrucius, adding that no such person had had an account with Carpinatius except during the time when Verres was in the island, and demanded that Carpinatius should reveal the identity of the man and should also explain why the accountant always made a mistake in the name at the same place.<sup>1</sup> Those in the court room declared that there never had been any Verrucius in Sicily. Carpinatius, in great perturbation, refused to reply, whereupon Cicero obtained a certified copy of the accounts, erasures and all, for use as evidence at Rome. This furnished the prosecutor with another opportunity for a gibe at Verres because of the swinish connotation of his name. "You see the name Verrucius? You see the first letters untouched? You see the last part of the name, as it were the tail of Verres covered up in the erasure, as in the mud!"<sup>2</sup>

Fortune usually smiled on the governor. Not content with bestowing upon him the *praetura urbana* and following that with the richest of all the provinces to plunder, she extended his term of office there, normally one year, to three years, and so trebled his opportunities. At the close of the year 73, Q. Arrius, praetor for that year, had been assigned to succeed Verres in Sicily,<sup>3</sup> and the provincials looked forward with relief to his arrival. But in those troublous times of the slave wars Arrius was needed for military duty and he was suddenly assigned to a command in the armies of the consuls Cn. Lentulus and L. Gellius (B. C. 72), who were taking the field against Spartacus. Arrius defeated Crixus, leader of the fugitive slaves, and killed 20,000 of his men, but with Gellius was afterward defeated by Spartacus.<sup>4</sup> Later in the year he started for Sicily but died on the way, and conditions were in such uncertainty at Rome because of the war that no other successor to Verres was appointed, and he was

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<sup>1</sup> II, 188.

<sup>2</sup> II, 191.

<sup>3</sup> II, 37; IV, 42.

<sup>4</sup> Livy, Periocha XCVI.

allowed to continue in office even until the end of the next year: ~~ear~~, B. C. 71.<sup>1</sup>

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<sup>1</sup>Schol. Gronovius in Div., p. 324 (Stangl); Ps. Ascon. arg. in Div., p. 185 (Stangl). The question whether Arrius was originally appointed ~~pro~~praetor of Sicily for the year 72 or for 71 has never been fully settled. The ~~scholiast~~ (Gronovius) indicates his own doubt in the words: *triennio Verr. ~~es~~ egit praetura in Sicilia, unum annum suum, alterum propter Arrii mortem, . . . . tertium propter fugitivos; alii autem dicunt secundum propter fugitivos et tertium propter Arrium.* But Hübner justly notes (Pauly-Wissowa Real-Ency. II, 1252) that the scholiast was evidently not aware of the fact that Arrius was engaged in the slave war in 72. If we accept the scholiast's statement in regard to Arrius's death, we must conclude that he was starting for Sicily toward the end of the year 72, to take over the province for the succeeding year. Livy's reference to him as *praetor* in the operations against Crixus is not to be taken as proof that he was not appointed governor until 71, as the inexact reading *praetor* or *propraetor* is very common.

## CHAPTER IV.

### ADMINISTRATION IN SICILY (B. C. 73-71) (DE FRUMENTO).

The prosperity of Sicily was so bound up with the manner in which the agrarian laws governing her peculiar system of taxation were executed, that the charges brought against Verres in respect to this phase of his administration are perhaps more serious than any of the others, though they have "less interest and variety in the discussion."<sup>1</sup> For an understanding of the necessarily technical character of the third oration of the *Actio Secunda*, some discussion of the system of taxation in vogue in Sicily and of the details of its operation will be essential.<sup>2</sup>

In the other provinces two sorts of land taxes were collected by Rome, either a fixed annual amount called *stipendiarium*, as in the case of the Spanish provinces, or an amount fixed by contract between Rome and the provincials, the terms of which were specified by the censors (*censoria locatio*), as in the case of Asia under the *Lex Sempronia*.<sup>3</sup> But in the case of Sicily and Sardinia, tithes (*decumae*) were levied on the products of the soil, and no *stipendium* was collected as long as the *decumae* were in force. Thus the tax was a variable one, its amount—and the consequent risk assumed by the revenue farmers—depending upon whether the vagaries of the weather produced a good or a poor crop. The four classes of Sicilian

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<sup>1</sup> III, 10.

<sup>2</sup> In the following sketch of the Sicilian system of taxation, I am indebted to the following, as well as to particular works cited in special notes.

Arnold, Roman Provincial Administration, p. 201 ff.

Degenkolb, Die Lex Hieronica.

Holm, Geschichte Siciliens III, p. 78 ff.; p. 201 ff.

Liebenam, Art. *Decuma* in Pauly-Wissowa IV, pp. 2306-2314.

Long, Ciceronis Orationes I, p. 587 ff.

Marquardt, Römische Staatsverwaltung I, pp. 242-247; II, pp. 187-191.

Rostowzew, Art. *Frumentum* in Pauly-Wissowa VII, pp. 129-132.

Smith, Dictionary of Antiquities, Art. *Decumae*, I, pp. 604-606.

Thesaurus Ling. Lat. V, 169-170 (*Decimanus*).

Zielinski, Philologus LII, p. 272 ff.

Ciccotti, Il Processo di Verre, pp. 124-129.

<sup>3</sup> III, 12.



cities have already been mentioned.<sup>1</sup> These classes existed by reason of particular variations in the relations between the Sicilian cities and Rome. All were permitted to keep a semblance of autonomous government, but in the matter of taxation some were shown more favor than others. The first class was composed of the *Civitates Foederatae*, of which there were three; Messina, Tauromenium, and Netum.<sup>2</sup> These allied cities were exempt from the payment of *decumae* to Rome and were nominally independent. The second class included the five *Liberæ ac Immunes* cities; Centuripæ, Halaesa, Segesta, Halicyæ, and Panormus, which, though *sine foedere*, were also exempted from the payment of *decumae* and from the ordinary jurisdiction of Roman magistrates.<sup>3</sup> A few cities which came under Roman dominion through conquest, lost the ownership of their land, but received it back on the condition of paying certain taxes, let on contract by the censors. These were the third class, the *Civitates Censoriæ*.<sup>4</sup> All the rest of the Sicilian towns were *Decumanæ*—

<sup>1</sup> See page 30.

<sup>2</sup> III, 13; V, 56, 133.

<sup>3</sup> Mommsen points out (Röm. Forsch. I, 1864, p. 363, n. 13) that the difference between the *Foederatae* and the *Liberæ* was only a formal one. The first class was more secure because its status was fixed by actual treaty. The second class was very little less restricted in the exercise of its autonomous rights, but these rights were less clearly defined. Even in the first class the *foedera* of the three cities were not uniform. (See Long I, p. 591). Carcopino (Mélanges d'Archéologie et d'Histoire, 1905, pp. 3-53), in an interesting discussion of the status of the Sicilian cities, endeavors to show that the omission by Cicero of the name of Netum among the *Civitates Foederatae* until Book V is not accidental, but that Netum was like the *Civitates Liberæ* in the fact that its territory was not exempted from payment of *decumae* when the cultivators were foreigners; i. e., not citizens of the place. That this was the case in the five *Liberæ* will appear later. The fact that Netum was less favored than the other *Foederatae* would simply go to prove the lack of uniformity in the *foedera* by which their relations to Rome were determined.

<sup>4</sup> These are not named by Cicero. Zumpt enumerates thirteen under this head, among them Agrigentum, Lilybaeum, and Selinus. But Holm (G. S. III, 376) in spite of Cicero's statement that they were *perpaucae* (which Holm interprets in a special sense), adds thirteen others to Zumpt's list, making 26 in all. In this he follows Marquardt (Staatsverw. I, 93). Rostowzew (Pauly-Wissowa VII, 131) sees no reason to doubt Cicero's state-

the fourth class, that is, subject to the annual payment of *decumae*. Yet even these last were allowed to make their payments in accordance with the law of Hiero II, under which the cultivators of each community were required annually to state by *professiones*<sup>1</sup> the amount of their land and of the seed they had sown, after which the *decuma* of the whole district was sold in Syracuse to the bidder who offered the largest number of bushels.<sup>2</sup> This amount of grain he was required to send to Rome. If the crop turned out well, he gained; if not, he lost. The *decumae* were levied on wheat (*triticum*) and barley (*hordeum*), which are the only kinds of grain mentioned by Cicero, and he gives one instance where the *decumae* of barley were let separately.<sup>3</sup> The tithes were also levied on the *fruges minutae*, such as pulse, and on wine and oil.<sup>4</sup> Under the *Lex Hieronica* the *decumae* of Sicily were sold in the province itself at Syracuse, and not at Rome. In the consulship of L. Octavius and C. Cotta, two years before Verres went to Sicily, an attempt had been made to change the law so as to permit the letting of the tithes on wine, oil, and *fruges minutae* at Rome.<sup>5</sup> But the opposition of the provincials to the change was strong enough to enable them to combat it successfully. Up to the time of Verres the law of Hiero had therefore been uniformly observed.<sup>6</sup> This law had been so carefully drawn up, that under its provisions it was practically impossible for the *arator* or actual cultivator of the land to defraud the tax collector, as the severest penalties were provided in such cases.<sup>7</sup> But on the other hand, the *arator* was

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ment that these cities were *perpaucae* (III, 13), a term which could hardly include 26, though he admits the impossibility of proving any number. Zumpt's list of 13 would conceivably come within the meaning of the term and is probably nearer the truth than the later estimates.

<sup>1</sup> III, 55, 102, 112, 116.

<sup>2</sup> Instances are noted of some of the Sicilian towns bidding for their own *decumae*. See III, 77, 99.

<sup>3</sup> III, 78.

<sup>4</sup> III, 18.

<sup>5</sup> Ibid.

<sup>6</sup> Cf. II, 147. For a discussion of the origin and name of the law, see Degenkolb, c. IV, pp. 78-94.

<sup>7</sup> III, 20.

fully protected against extortion at the hands of the collector, and thus the occupation of the agriculturist had been a profitable one.

A considerable amount of capital was necessary in order to embark in the business of farming the revenues, and those who did so (*publicani*) naturally came from the wealthiest Roman families. In fact this business, even up to the early Empire, was largely in the hands of the *equites*. So generally was this the case that the terms *equites* and *publicani* are occasionally used interchangeably.<sup>1</sup> As ample security was demanded by the state for the amount at which the revenues were sold to the *publicani*, a corporation (*societas*) chartered by the state, was often formed by the *equites*, so that the combined financial resources of its members permitted operations on a larger scale than would be possible for an individual. Such a corporation was mentioned in connection with the activities of Carpinatius,<sup>2</sup> who was his company's *sub-magister* or field superintendent, in charge of the actual collections. Only Roman citizens might become shareholders in the companies of *publicani*.<sup>3</sup> Magistrates and provincial governors were, for obvious reasons, prohibited from owning shares in such companies.<sup>4</sup>

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<sup>1</sup> I, 137; II, 175; III, 168.

<sup>2</sup> II, 169-191. See p. 54 ff.

<sup>3</sup> III, 86.

<sup>4</sup> III, 87, 130. For a discussion of the details of organization of the *societates publicanorum*, see Carcopino (*Mélanges d'Archéologie et d'Histoire*, 1905, pp. 401-442). On the strength of II, 175, *Decumani, hoc est principes et quasi senatores publicanorum, removendas de medio litteras censuerunt*, the phrase *decreto decumanorum* (III, 166), and other evidence, he concludes that the *decumani* of Book II were the administrative officers of the *societates*, but were themselves not personally concerned in the actual tax-farming. This was the duty of the *publicani*. Thus the distinction between the two is more closely drawn than formerly, and, if true, Carcopino has made a valuable contribution to our understanding of the text. But he admits that the *decumani* of Book III are of quite a different sort, and that in some respects they are of lower rank than the ordinary *publicani*. Yet it is hardly probable that Cicero used the term in the absolutely restricted sense in one oration, and not in the oration directly following. The usual interpretation seems much preferable. *Publicani* were, in general, *tax* farmers; *decumani* were, in particular, *tithe* farmers.

The *aratores*, or actual cultivators of the soil, rented their lands from the *decumani*, those of the *publicani* who had bought the privilege of farming the *decumae*. There were great numbers of *aratores* who operated in a small way on a limited area, but there were also numerous cultivators who found profitable investment for large capital both in purchasing and leasing land. In fact many of the so-called *aratores* were rich Sicilians and even Romans, who had made their fortunes and were constantly increasing them in this legitimate enterprise.<sup>1</sup>

But in addition to the *decumae* paid as taxes, other demands were made on the products of the island, proper payment being in each case provided by law. When the necessities of Rome demanded a larger supply than was provided by the first *decuma*, a second *decuma* was purchased from the *Civitates Decumanae*, technically called *frumentum emptum*, the price paid being three sesterces a *modius*.<sup>2</sup> If still more grain was requisitioned by Rome (*frumentum imperatum*), a price of three and a half sesterces a *modius* was provided, and from this demand no cities were exempt. Finally, the *frumentum aestimatum* was the grain which the governor was empowered to demand of the provincials for the use of himself and his household,<sup>3</sup> the maximum amount which he could demand, and the price he should pay, being fixed by law. Funds were furnished him by the state to cover this expense. Verres was guilty of vast extortions in connection with all three of these methods of obtaining supplies—methods in themselves perfectly legitimate—and it is upon this threefold basis that Cicero divides the subject matter of the third oration.<sup>4</sup>

#### A—The Decumae.

For every specific duty the governor used his knowledge of men to appoint that one of his followers who seemed best fitted

<sup>1</sup> II, 6; III, 53.

<sup>2</sup> III, 163. The *modius*, the principal Roman dry measure (practically equivalent to an English peck) was equal to one sixth of a Greek *medimnus* (III, 110), the latter being nearly equal to twelve gallons, or a bushel and a half.

<sup>3</sup> III, 188.

<sup>4</sup> III, 12.

for the task in hand. To the names of Rubrius, Habonius, Turpio, Cleomenes and Aeschrio, Volcatius, Timarchides, and Carpinatius, must now be added that of Apronius, chief of the *decumani*, one of the outstanding figures in connection with the extortions of grain. Cicero characterizes him in the most emphatic and unflattering terms.<sup>1</sup> "This Apronius," says the prosecutor, "is the man whom Verres . . . considered most like himself of any man in the whole province." The first step in the operations of Verres and the *decumani* was the issuance of the following edict: *quantum decumanus edidisset aratorem sibi decumae dare oportere, ut tantum arator decumano dare cogereetur*;<sup>2</sup> "whatever amount of tithe the collector declared that the cultivator ought to pay, that amount the cultivator should be compelled to pay to the collector." On the other hand, the edict is given an appearance of justice by the provision of a fine of eight-fold damages to be assessed against a collector convicted of any extortion. But the speciousness of this clause is pointed out by Cicero, who shows the injustice of compelling the countryman to give Apronius what the latter demanded and of then calling the rustic, entirely unskilled in the subtleties of the law, from his labor, to bring action in the court at Syracuse against the favorite of Verres, before judges of Verres's creation.<sup>3</sup> The edict thus practically put the *aratores* at the mercy of the *decumani*, to whom the pseudo-penalty was not, under the existing conditions, likely to prove a serious stumbling block.<sup>4</sup> At the time of the trial of the suit, the *decumanus* would be in actual possession of the confiscated property which the *arator* would be endeavoring to recover. This fact would make the position of the former almost impregnable.<sup>5</sup> That this was actually the case is shown by the fact that in spite of the extortions, which were a matter of common talk throughout the island, not a single action for

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<sup>1</sup> III, 22, 31.

<sup>2</sup> III, 25.

<sup>3</sup> III, 26-28. This argument of Cicero is slightly sophistical in that at least some of the *aratores*, as already pointed out (p. 63), were rich and educated men rather than simple rustics.

<sup>4</sup> III, 29.

<sup>5</sup> III, 27.

the eight-fold damages was on record as having been brought during the entire three years of Verres's administration.<sup>1</sup> The *aratores*, among them many Roman *equites*, did not dare run the risk of insult and ridicule in addition to being stripped of their property. By the terms of the edict the *decumanus* was even further fortified by the right to enforce his claim against an *arator* before a Sicilian magistrate. The magistrate was directed to exact from the defendant whatever the plaintiff demanded.<sup>2</sup> If anything else was needed to discourage attempts to contest the extortions of the collectors, it was furnished in the final provision of the edict to the effect that the *aratores* might be sued for a four-fold penalty in the event of non-compliance with the collector's demands.<sup>3</sup> Thus, in three distinct ways, the *decumanus* was protected against interference with his illegal business, and the *judicium in octuplum*, ostensibly provided for the relief of the *arator*, despite its apparent severity, was in reality a farce. Finally, if any *arator* had ever had the courage to bring suit, he would have been confronted by the statement in the edict: *Si uter volet, recuperatores dabo*.<sup>4</sup> That is, Verres reserved the right to appoint judges to his own liking, and probably from his own followers. For, as Cicero notes, "*si uter volet*" is equivalent to saying, "*si decumanus volet*."

Of course it was hardly possible to issue an edict which would cover every conceivable case. But the governor still had the right to issue *edicta repentina* or special edicts, intended to apply to individual cases, the exercise of which right had been a valuable prerogative of his urban praetorship.<sup>5</sup> Three of these special edicts are mentioned by Cicero, the first two of which were called forth by the action of Q. Septicius, a Roman *eques* and an *arator*. The first *edictum repentinum* provided that no man should remove his grain from the threshing-floor until he had satisfied the collector's

<sup>1</sup> III, 29, 32.

<sup>2</sup> III, 34.

<sup>3</sup> Ibid.

<sup>4</sup> III, 35. *Recuperatores* were judges appointed to sit on any case for the recovery of funds or property seized by extortion.

<sup>5</sup> See p. 16.

demands.<sup>1</sup> Septicius, rather than accede to the excessive levy of his *decumanus*, left his grain on the floor and allowed it to be damaged by rain. Forthwith appeared edict number two, to the effect that the *decumae* must be delivered at the coast before August, the first.<sup>2</sup> So the unfortunate *arator* was impaled on the horns of a dilemma. The second edict compelled the removal of the grain from the threshing-floor, and the prohibition of that removal until the demands were met made the settlement compulsory and not voluntary.<sup>3</sup> The third special edict was particularly irregular, being diametrically opposed to the *Lex Hieronica* and the practice of all former praetors.<sup>4</sup> It provided that an *arator* should give security (*vadimonium*) for his appearance in any court which the *decumanus* might choose. Precedent, herein violated, had specified *ne quis extra suum forum vadimonium promittere cogatur*.<sup>5</sup> The possibilities for the *decumanus* in-

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<sup>1</sup> III, 36. The *area* was an open place for treading out the grain, unprotected from the elements (cf. Vergil, *Georgics* I, 178). That this edict was strictly within the provisions of the law of Hiero, Degenkolb conclusively shows (*Die Lex Hieronica*, pp. 48-50) from the statement of III, 20: *quae lex omnibus custodiis subjectum aratorem decumano tradidit, ut neque in segetibus neque in areis neque in horreis neque in amovendo neque in asportando frumento grano uno posset arator sine maxima poena fraudare decumanum*.

Cicero nowhere characterizes this edict as illegal, but only as unjust: (III, 36, *ferebat hanc quoque iniquitatem Septicius*). It is simply another case of guarding oppressive measures behind legal impregnability.

<sup>2</sup> Ibid. Zumpt (p. 456), followed by Long (pp. 285, 592) rightly takes this order as applying only to the *alterae decumae* which were bought from the Sicilians for the use of Rome (see p. 63). From III, 101, it would appear that the inhabitants of any given district were required to deliver their *decumae* at the chief place of that district, and that it was irregular for Verres to require them to be delivered at another place. This would make impossible the conclusion (from III, 36) that the *aratores* were always obliged to carry their *decumae* to the coast, the view advanced by Dureau de la Malle (*Économie Politique des Romains*, II, p. 427).

<sup>3</sup> III, 37.

<sup>4</sup> III, 38. Cf. Degenkolb, pp. 12-13.

<sup>5</sup> Ibid. "This *forum* is the place to which the people of a certain district resorted to settle their legal disputes, and for other court business; it is also the court-house of a district, and hence the district itself."—Long, p. 286.

The *vadimonium* was a device originally adopted to obviate the necessity

herent in the right to force his victim to appear in a court of his own choosing are obvious. As Cicero graphically says, it was done "so that in this way also gain might accrue to Apronius, when he dragged a defendant all the way from Leontini to Lilybaeum to appear before the court at that place."<sup>1</sup>

One other edict ordered the *aratores* to make a statement

of a second summons in case of temporary adjournment of a trial, the defendant being bound by the praetor to reappear at a certain time by an agreement entered into by the parties to the suit. The defendant gave security for a stipulated sum in the event of his non-appearance. The device was afterward extended to secure the *first* appearance of a defendant, and became a voluntary stipulation entered into by the parties before their appearance in court. The party summoned bound himself under a penalty to present himself before the praetor by a certain day. (See Greenidge, pp. 142-143.) It was, of course, the latter sort of *vadimonium*, properly a voluntary agreement, to which the *arator* was forced by the third *edictum repentinum*.

<sup>1</sup> III, 38. The three *edicta repentina* are again referred to and enumerated in III, 51: *Cur addictis jam et venditis decumis, . . . subito atque ex tempore nova nascebantur edicta? Nam ut vadimonium . . . ut ex area . . . , ut ante Kal. Sext. . . , haec omnia jam venditis decumis anno tertio te edixisse dico.* According to the last clause the three edicts are all of the date 71 B.C. But Zielinski (Philologus LII, pp. 268-271) maintains the impossibility of such a dating, and the consequent necessity of deleting *anno tertio*, on the following grounds.

"(1) The phrase implies that the *decuma* had been leased out in one of the two preceding years, whereas we learn (III, 76) in the case of Herbita that in the first year Atidius bought the tithes, in the second Apronius, and in the third Verres regally bestowed the tithes on two women favorites.

(2) We can hardly believe that Septicius would have submitted to extortion for two years and have waited till the third to demand his rights.

(3) The second edict (*ut ante Kal. Sext. omnes decumas ad mare deportatas haberent*) was evidently issued in the first year, if Zumpt is correct in understanding that the *alterae decumae* or *frumentum emptum* is here meant. For the latter was ordered by the *Lex Terentia Cassia* (III, 163) in the year 73 B. C."

None of the arguments are entirely convincing. The tithes of Herbita might easily have been a special case; Septicius might have grown weary of extortion; the praetor might not have seen fit to put the *Lex Terentia Cassia* into immediate execution. Besides, Zielinski's argument has against it the full weight of Mss. authority. On the whole, it seems over-bold. (Cf. Holm, G. S. III, p. 415).



(*professio*) of the amount of their land and of their sowing.<sup>1</sup> Under this it was easy for Apronius to extort vast quantities of grain through threats of suits against incomplete or false declarations, for in such suits, as the *aratores* knew only too well, but one verdict could be expected.<sup>2</sup> One may well say that the edicts were "meant to breed litigation,"<sup>3</sup> for the opportunities for the governor and his lieutenants to sell justice increased correspondingly with the number of suits.

As a result of the systematic terrorization of the *aratores*, the members of that class came to consider themselves fortunate in one way or another, they were not forced to pay more than three times the tithe to which they were legally liable.<sup>4</sup> They had been accustomed to receive from the senate a good price for even a second tithe (*frumentum emptum*) when it had been necessary to demand it.<sup>5</sup> Many of the *aratores*, despairing of any improvement in their condition, abandoned their industry and their leases.<sup>6</sup> That the province was still able to furnish Rome with grain after Verres withdrew was due to the measures which Metellus, his successor, took for the purpose of inducing the *aratores* to continue in their industry, and of influencing such of them as had withdrawn, to return. For Metellus sent letters from Rome some time before his arrival, declaring that he would sell the *decumae* strictly according to the law of Hiero.<sup>7</sup> Even such assurances, "couched in almost a

<sup>1</sup> III, 38. This was probably not an *edictum repentinum*, but one of the *edicta superiora*. Drumann, *Geschichte Roms* V, p. 284, includes it with the former, but Zielinski (*Philologus* LII, p. 267, n. 31) notes that it is not included in the recapitulation of the special edicts in III, 51, and that in this passage (III, 38): *quamquam illa fuit ad calumniandum . . . reperta ratio, quod edixerat*, the pluperfect shows that Cicero classes this order with the former general orders, *edicta superiora*.

<sup>2</sup> III, 39.

<sup>3</sup> Sihler, M. T. Cicero of Arpinum, p. 80.

<sup>4</sup> III, 42.

<sup>5</sup> Ibid. See p. 63.

<sup>6</sup> III, 43, 46, 47.

<sup>7</sup> III, 44, 45. Zielinski (*Philologus* LII, pp. 271-272) dates the letter of Metellus as probably belonging to September, B. C. 71, largely on the strength of *ne, si tempus sationis praelerisset* (III, 44). The sowing takes place in Sicily in November.

supplicating tone,"<sup>1</sup> failed to restore immediately the agricultural activities of the island. Cicero, in a rhetorical burst of indignation, represents its appearance, when he saw it in the year 70, as that of a land ravaged by long and bitter war. "In the (formerly) most fruitful part of Sicily, we were seeking Sicily (in vain)."<sup>2</sup> The only defense that the praetor might have offered—that he had sold the tithes at a higher rate than any predecessor, and in that degree had benefited the Roman people—Cicero demolishes by showing how nearly he had cut off from Rome her chief grain supply by discouraging the *aratores*,—a price too dear to pay for any temporary financial gain.<sup>3</sup> Also, asserts the prosecutor, Verres's personal gain from the sale of the *decumae* was at least as much, and perhaps twice as much as the amount he sent to Rome.<sup>4</sup> As evidence he cites the governor's own statement that by the profit on the *decumae* alone he could buy himself off from all danger (of conviction by successful prosecution).<sup>5</sup> Such a partnership as he had entered into with the *decumani* could not fail to enrich its authors any more than it could fail to pauperize its victims.<sup>6</sup>

Out of the *edictum de professione*<sup>7</sup> grew the case of Nympho of Centuripae, an *arator* on a large scale, who was accused of not making a true statement of the number of his acres.<sup>8</sup> As *recuperatores* Verres appointed three members of his own retinue, so that "Nympho was convicted before he had fairly reached the court."<sup>9</sup> No penalty was provided in the edict, but Nympho was con-

<sup>1</sup> III, 46. "*prope suppliciter*."

<sup>2</sup> III, 47. This is repeated and expanded in III, 125-128.

<sup>3</sup> III, 48.

<sup>4</sup> III, 49. Variouslly stated in this section as "*non minus*," "*aequam partem*," "*duabus partibus amplius*," and "*innumerabilem pecuniam*."

<sup>5</sup> Ibid.

<sup>6</sup> Holm (G. S. III, 153) shows that such a partnership was the worst thing a province could encounter. The *decumani* were usually a source of annoyance to provincials and governor alike. But when the governors so lowered themselves as not only to give the *decumani* a free hand but actually to assist them and share their booty, there was no hope for the province.

<sup>7</sup> See p. 67.

<sup>8</sup> III, 53.

<sup>9</sup> III, 54.

demned to the forfeiture of all the grain then on his threshing-floor, seven thousand *medimni* of wheat.<sup>1</sup> He was one of those who became discouraged, abandoned his lands, and fled to Rome.<sup>2</sup>

Xeno of Menae was another victim of the *edictum de professione*.<sup>3</sup> His wife was possessed of an estate in her own right which she was accustomed to administer herself. She had leased a farm to a *colonus*,<sup>4</sup> who had been so oppressed by the collectors that he had subsequently fled. Suit was brought against Xeno by Apronius on the charge of an incomplete statement of the amount of the land on the part of the lessee, and Verres ordered his condemnation, if it should appear that there were more acres in the farm than the lessee had stated in the *professio*. Xeno's defense was that he had not been the cultivator of the land nor had he leased it, but that it was his wife's property and that she had herself let it to the absent *colonus*. A penalty of 80,000 sesterces was provided, and judges were appointed as usual, whom the governor felt that he could trust. In spite of this, Xeno announced that he would stand trial, and brought in one M. Cossutius as his advocate. By threats of physical violence and even of the scourge, he was reduced to submission and paid the *decumani* all that Verres demanded.<sup>5</sup> Nor was Xeno the only

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<sup>1</sup> III, 54. The value of the fine, reckoning the *medimnus* at 15 sesterces, was thus 105,000 sesterces (Holm, G. S. III, 416). On the basis of Cicero's *condemnatur. Quanti ? fortasse quaeritis*, Degenkolb (pp. 67-70) concludes that an actual money fine was levied, and that later Nympho agreed with Apronius to liquidate the fine by forfeiture of the grain. The whole case rests upon *quanti*. It is reading entirely too much into the text to say that to Romans *quanti* could only mean actual cash, and not value in any other form, that therefore a money fine must be implied by the passage, and that consequently Nympho willingly allowed the seizure of his wheat.

<sup>2</sup> III, 53.

<sup>3</sup> III, 55.

<sup>4</sup> The regular term for the lessee of a farm. Cf. Gaius, Dig. 19, 2 ; 25, 6 ; Cod. Just. 5, 62, 8 ; Cic. Caecin. 94. For other examples, see Thesaurus Ling. Lat. III, 1706-1707.

<sup>5</sup> Degenkolb (pp. 50-52) expresses doubt as to the validity of Xeno's defense, because in certain cases (as in the construction of roads) the owner and the lessee were equally responsible. Also in public suits, especially in matters of taxation, a husband usually appeared for his wife. (Cf.

provincial so intimidated by actual bodily injury. Polemarchus of Murgentia was the possessor of fifty *jugera*,<sup>1</sup> on which 700 *medimni* were demanded as the legal tithe.<sup>2</sup> Upon refusing to pay the exorbitant figure, he was summoned to the praetor's house and even to the latter's bedchamber, so little regard did Verres have for the prescribed forms of judicial procedure. There he was beaten and kicked about till he was ready to pay even a thousand *medimni*. Eubulidas Grosphus, a wealthy citizen of Centuripae, was likewise subjected to the indignities of similar violence, and thereby forced to deliver more grain than he was legally liable for.<sup>3</sup> Sostratus, Numenius, and Nymphodorus, brothers, and of the same city, were actually called upon to furnish more grain than they had raised.<sup>4</sup> The impossibility of meeting the demand prompted them to flee. Apronius collected a force of men, went to the deserted farms, seized all agricultural implements, carried off the slaves who remained, and drove off the live stock. Afterward, when Nymphodorus came to Apronius at Aetna and begged for the restoration of his property, the latter ordered the man to be seized and hung up on a certain wild olive tree which grew in the forum, where he remained "as long as Apronius wished."

The cases referred to in the last paragraph were all those of Sicilians. Roman citizens, mostly *equites*, engaged in agriculture, seem to have fared little better at the praetor's hands.<sup>5</sup>

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Huschke, *Über den Census und die Steuerverfassung der früheren Röm. Kaiserzeit*, Berlin, 1847, p. 141, n. 295). The latter boldly absolves Verres from all guilt in the matter and takes Cicero to task for unjustly accusing him here. But he reaches the conclusion from the same evidence which led Degenkolb (1861) to regard the defense as only *doubtful*. There is no evidence to show conclusively that Xeno was legally responsible for the failure of his wife's tenant to make a true return. In its absence we can only accept Cicero's statement. On the general aspects of the case, see Greenidge, p. 124.

<sup>1</sup> A *jugerum* was approximately five-eighths of an English acre.

<sup>2</sup> III, 56.

<sup>3</sup> *Ibid.*

<sup>4</sup> III, 57.

<sup>5</sup> III, 59.

One such, C. Matrinius, was held for two days by the ord Apronius, in the open forum of Leontini without food, until agreed to submit to the latter's terms.<sup>1</sup> Q. Lollius, an *arator* of the equestrian order, a man ninety years old, whose land lay in the district of Aetna, declared that he would not pay the *decumani* more than he owed them.<sup>2</sup> Apronius, hearing this defiance, sent his "slaves of Venus"<sup>3</sup> to seize the man and force him to appear. So he was dragged before the praetor's favorite, when the latter had just returned from the palaestra and was reclining on a banquet couch spread in the forum at Aetna. Surrounded by the carousing crew of Apronius, who soon became flushed with wine and feasting, the old man was subjected to verbal insult and physical violence, and speedily brought to terms.<sup>4</sup> Later on, his son, Q. Lollius, who had started for Sicily with the avowed purpose of avenging the injustice shown his father, was murdered on the way. Fugitive slaves were held responsible for the deed, but gossip had it that the young man was done to death "because he could not keep to himself his intentions concerning Verres."<sup>5</sup>

Sometimes whole cities were victimized by an extension of the same methods which were so successful against individuals. Witness the case of Agyrium. Apronius had purchased its *decumae* and, coming thither with his usual retinue, he asked for a sum far in excess of the amount legally due, frankly stating that he wished an immediate profit and that he would withdraw as soon as he received it.<sup>6</sup> The Agyrians replied that they were prepared to pay the regular tithe as usual, but declined to add

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<sup>1</sup> III, 60.

<sup>2</sup> III, 61.

<sup>3</sup> "Venerios." The shrine of Venus Erycina was rich in slaves, and many of them were used by Verres and his agents for various purposes.

<sup>4</sup> III, 62, 65.

<sup>5</sup> III, 63. There is absolutely no evidence to support this charge and it is probably only an oratorical flourish. Cf. the circumstances of the death of Malleolus, p. 12.

<sup>6</sup> III, 67. Leaving the Agyrians, of course, to collect their own *decumae*. (Cf. III, 71).

ny extra profit (*lucrum*) for Apronius.<sup>1</sup> This slight toward his favorite being reported to the governor, he summoned the Agyrian magistrates and five other prominent citizens to appear before him at Syracuse where, upon their arrival, they were accused by Apronius of acting contrary to the praetor's *edictum e professione*.<sup>2</sup> Apronius refused to produce any specific charges before the actual trial. As a test of the courage of the defendants, Verres stated that he would appoint the judges for the case out of his own retinue, but the Agyrians, even in the face of the indubitable result of such appointments, still stated that they would stand trial. Those appointed as *recuperatores* were Artemidorus Cornelius, the governor's physician, Tlepolemus Cornelius, a painter, and others "of the same sort," none of whom were Roman citizens, but Greeks, partners in former operations of Verres, and now "all of a sudden, Corneli." The defendants inquired what formula<sup>4</sup> would be given to their judges on which to try them, and in response to their inquiry the formula was enunciated: "if it appeared that they had acted contrary to the edict."<sup>5</sup> Even this failed to induce them to come to terms, and Timarchides was sent secretly to warn them that if they were wise they would come to an understanding. This they refused. Even the threat of a judgment for 50,000

<sup>1</sup> III, 68. "The *lucrum* was probably not unusual, a kind of fee to the *decumani* to keep them in good humor. Cicero himself (ad Q. Fr. I, I, c. 2) hints pretty plainly that it is better to overpay the *decumani* than to have any trouble."—Long, p. 303.

<sup>2</sup> Ibid. Cf. III, 70.

<sup>3</sup> III, 69. The name *Cornelius* would indicate that they claimed citizenship, but Cicero insinuates that they all had suddenly assumed the name. Sulla had given his name to over 10,000 manumitted slaves (see p. 2.) and these men may have been included in the number or have assumed the name illegally.

<sup>4</sup> That is, in what form the charge against them would be put. The praetorian *formulae* were particular interpretations of *edicta*, made for the guidance of judges presiding in the case. "The *formula* is the skeleton outline of its (the edict's) application."—Greenidge, p. 88. Thus the *formula* enunciated by Verres for this trial was a most vague and unsatisfactory pronouncement. In fact, it was no *formula* at all, according to strict definition of the term.

<sup>5</sup> III, 69, *si paret adversus edictum fecisse*.

sesterces against each of them was unavailing. Only one threat still remained. The praetor publicly announced that whoever should be convicted would be beaten to death with rods. Seeing that there was no hope of obtaining justice, and happy to escape with their lives, they agreed to hand over practically all the grain they possessed to Apronius without further debate.<sup>1</sup> The amount of this *lucrum* was officially determined as 33,000 *medimni* of wheat,<sup>2</sup> and to pay Apronius for testing this grain they were ordered to give him one sesterce the *medimnus*. So Apronius made his immediate profit, was released from his bargain, and the Agyrians were forced to collect the *decumae* of their own city on the terms under which Apronius had bought them, namely 30,000 sesterces. The total booty then was 33,000 *medimni* of wheat and 63,000 sesterces.<sup>3</sup> The details of the whole matter were included in the public records of Agyrium and Cicero had them ready for use in the great trial.<sup>4</sup>

The citizens of Herbita were despoiled by the same methods. In the first year of Verres's praetorship, the *decumae* of the place had been sold to Atidius, another of the governor's lieutenants, for 18,000 *modii* of wheat.<sup>5</sup> The latter came to Herbita with the title of *praefectus*, and as was the right of a public official, was entertained at the expense of the state. Whereupon, being more successful than Apronius at Agyrium, he compelled the payment of 38,800 *modii* of wheat to himself as *lucrum*, with a further gift of 2,000 sesterces.<sup>6</sup> The third year, Aeschrio of Syracuse was appointed farmer of the *decumae* of Herbita, an appointment particularly disastrous at the time for the unfortunate

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<sup>1</sup> III, 70, 71.

<sup>2</sup> III, 72.

<sup>3</sup> III, 73. Cicero is slightly inaccurate in stating the amount as *tritici medimnum XXXIII et praeterea HS LX*.

<sup>4</sup> III, 74.

<sup>5</sup> III, 75. Practically all editors have agreed that the figures and measures of §§75-77 are in a state of considerable confusion. I have followed Müller, whose readings seem most reasonable. The abbreviations *med.* and *mod.*, being easily confused, have caused considerable doubt as to the measures named.

<sup>6</sup> III, 76.

inhabitants.<sup>1</sup> For the praetor's *liaison* with Pipa, wife of Aeschrio, was a common scandal, even to the extent that ribald verses on the subject appeared on the governor's tribunal.<sup>2</sup> The people of Herbita, seeing that the woman's influence would prompt Verres to protect her pseudo-husband<sup>3</sup> in any extortion, prepared to bid against him as far as they thought they could go. Aeschrio, however, secure in his knowledge that he would not be allowed to lose, did not hesitate to outbid the Herbitenses, and bought the *decumae* for 8,100 *medimni*—nearly half as much again as they had brought in the preceding year. This figure was later reduced by Verres to 7,500 *medimni*, because he feared that the greater amount could not be extorted from a people already exhausted by two years' exploitation. The *decumae* of barley<sup>4</sup> for the same district had been sold to Docimus who was in even greater favor than Aeschrio, for, acting as a procurer, he had brought to Verres Tertia, daughter of Isidorus, an actor, having secured her from a Rhodian musician.<sup>5</sup> Her influence with the governor was greater than that of any other of his women favorites; in fact she seems to have been the Chelidon of the Sicilian administration.<sup>6</sup> Aeschrio and Docimus, being Sicilians, failed to intimidate the Herbitenses into acceding to their demands, and the latter were summoned to appear at Syracuse. There they were compelled to pay to Aeschrio,—“that is, to Pipa”—3,600 *modii* of wheat, and to Docimus 12,000 sesterces.<sup>7</sup> Even after that it was necessary to pay bribes to the *decumani* to induce them to withdraw from Herbita.

At Acesta the *decumae* were sold to Docimus,—“that is, to Tertia”—for 5,000 *modii* of wheat, and an extra fee of 1,500

<sup>1</sup> III, 77.

<sup>2</sup> Ibid.

<sup>3</sup> “*vir adumbratus*.”

<sup>4</sup> This is the only instance given of the letting of the *decumae* of wheat separately from those of barley.

<sup>5</sup> III, 78.

<sup>6</sup> Ibid. Cf. V, 31 where she is mentioned again.

<sup>7</sup> III, 79.



sesterces was extorted.<sup>1</sup> Then the state was forced to take the tithes from Docimus at the same price. The accounts of Verres, covering the transaction, showed a discrepancy of 3,000 *modii*, which Cicero concludes was stolen from the Roman people and given to Tertia the actress.

While Apronius and his lieutenants were busy in the larger and more fruitful districts, there were still others of the "Dogs" to unloose upon the less important communities. Among these was Aulus Valentius, attached to the governor's suite in the capacity of a Greek interpreter.<sup>2</sup> He also engaged in the business of farming the *decumae* and purchased those of the little island of Lipara, a relatively poor and barren district, for 600 *medimni* of wheat. By the usual procedure, the people of the district were compelled to take the tithes off his hands, and to pay Valentius a *lucrum* of 30,000 sesterces, the equivalent of 2,000 *medimni* of wheat,<sup>3</sup> or more than three times the amount of the purchase price.

Tissae was a small and poor city, inhabited by a hard-working agricultural population.<sup>4</sup> Thither was sent Diognetus, not even a freedman, but a slave with no resources of his own, who in two years exacted for his master more than the whole value of the harvest. In the year 72, the inhabitants gave 21,000 sesterces as a *lucrum*; the next year 12,000 *modii* of wheat. The fact that Diognetus was an impecunious slave made it look all the more probable that Verres was the actual *decumanus*.<sup>5</sup>

In the presence of representatives from the community of Amestratus, their *decumae* were sold to a certain M. Caesius, and one of their number, Heraclius, was compelled to pay at once 22,000 sesterces as *lucrum*.<sup>6</sup> The report of Heraclius to his state was

<sup>1</sup> III, 83.

<sup>2</sup> III, 84.

<sup>3</sup> This fixes the price of wheat at 15 sesterces the *medimnus*, the basis upon which all commentators make their computations in cases where Cicero does not expressly state the amount. Cf. III, 90.

<sup>4</sup> III, 86. The location of Tissae is uncertain. Zumpt places it slightly west of Tauromenium.

<sup>5</sup> III, 87.

<sup>6</sup> III, 88.

part of Cicero's evidence, since in most of the cases where whole communities were plundered, the public documents were available. The next year an unspecified sum was extorted and given to a certain Sextus Vennonius.<sup>1</sup> Still a third time was the process repeated when, the *decumae* having been sold to one Bariobalis, for 800 *medimni*, a similar amount and 1,500 sesterces were collected as *lucrum*.<sup>2</sup>

At Petra,<sup>3</sup> though the *decumae* had been sold at a high price, the people were forced to pay P. Naevius Turpio 52,000 sesterces.<sup>4</sup>

Halyciae was one of the *Liberæ ac Immunes* cities,<sup>5</sup> and its citizens were therefore exempt from taxation. But settlers there (*incolae*) who were not *cives* were not included in the exemption.<sup>6</sup> The *decumae* of these foreign cultivators had been sold for 100 *medimni*, but they had to pay Turpio 15,000 sesterces. Symmachus, another useful tool, was sent to Segesta, also one of the cities immune from payment of tithes.<sup>7</sup> There a citizen of Panormus, Diocles Phimes, cultivated a farm which he had rented, since ownership of land by foreigners was prohibited at Segesta.<sup>8</sup> His annual rent was 6,000 sesterces. Not even pretending that the booty was a *lucrum* or extra fee, Symmachus extorted 16,000 sesterces and 654 *medimni* as a *decuma*.

The senatorial rank was no more a protection against the praetor's demands than was the equestrian. Annaeus Brocchus, a Roman senator, was compelled to hand over to Symmachus an unnamed amount of money and grain.<sup>9</sup> Such disregard of

<sup>1</sup> III, 89.

<sup>2</sup> Ibid.

<sup>3</sup> A small town probably between Agrigentum and Panormus. "Its site is supposed to be the present Casal della Pietra."—Long, p. 316.

<sup>4</sup> III, 90.

<sup>5</sup> See p. 60.

<sup>6</sup> III, 91.

<sup>7</sup> See p. 60.

<sup>8</sup> III, 93. Zielinski (Philologus LII, p. 275, n. 51) sees in this prohibition an attempt to make it impossible for Rome to assess provincial land. Holm (G. S. III, p. 417) thinks it improbable that a provincial state could expect to put a check on the Romans through such artifices.

<sup>9</sup> III, 93.

senatorial authority and dignity is characterized by Cicero as the height of recklessness, in face of the fact that from that order must come the judges before whom any future case against Verres would be tried.<sup>1</sup> Even the consul C. Cassius Longinus, who was in office during the first year of the Sicilian administration, indirectly felt the hand of the oppressor. For his wife was in possession of lands at Leontini, inherited from her father, on which land the entire crop was confiscated as *decumae*.<sup>2</sup>

In order to avoid the spoliation experienced by other states, the citizens of Thermae sent agents to buy the *decumae* of their district.<sup>3</sup> These agents were prepared to pay a high price rather than allow some emissary of Verres to be the successful bidder. A certain Venuleius had been sent for the purpose, and though the Thermitani remained in the bidding for some time in the vain hope of success, the *decumae* were finally declared sold to Venuleius for 8,000 *medimni* of wheat. Posidorus, one of the agents, reported the result to Thermae, and so great was the citizens' fear of the new *decumanus* that they sent him 7,000 *modii* of wheat and 2,000 sesterces on condition that he should not come near them.

The people of Imachara,<sup>4</sup> having suffered the loss of their grain, were mulcted of 20,000 sesterces by Apronius.<sup>5</sup> At Henna, where the *decumae* had been sold for 8,200 *medimni*, Apronius exacted 18,000 *modii* and 3,000 sesterces. In the third year of the Sicilian praetorship Verres ordered the people of Calacte to carry their *decumae* to M. Caesius at Amestratus, an unheard of proceeding.<sup>6</sup> Theomnastus of Syracuse was sent into the district of Mutyca, where the people were so completely despoiled that they were compelled to buy wheat for their second tithes (*alterae decumae*).<sup>7</sup> At Hybla six times as much grain as was sown was

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<sup>1</sup> III, 94-96.

<sup>2</sup> III, 97.

<sup>3</sup> III, 99.

<sup>4</sup> Another small town, the location of which is uncertain.

<sup>5</sup> III, 100.

<sup>6</sup> III, 101.

<sup>7</sup> See p. 63. (This was the *frumentum emptum*).

exacted from the *aratores*. Without details, Cicero mentions the following towns as having suffered spoliation similar to that already described: Menae, Agrigentum, Entella, Heraclea, Gela, Soluntium, Catana, Tyndaris, Cephaloedium, Haluntium, Apollonia, Engyum, Capitium, Ina, Murgentia, Assoria, Helorus, Jetæ, Cetaria and Scheria.<sup>1</sup> In short, Rome received one tenth of the produce, Verres the rest, and little or nothing was left to the *aratores*.

With regard to the cities of Aetna and Leontini, Cicero speaks in considerable detail, though confining the evidence to the occurrences of the third year only.<sup>2</sup> Apronius was *decumanus* at Aetna, and is represented as coming thither with his retinue, summoning the city magistrates before him, and ordering banquet couches to be spread for him in the forum.<sup>3</sup> There he feasted daily at public expense, and in the midst of music and wine-drinking he was accustomed to arrest the *aratores* and unjustly and even insultingly to extort whatever quantity of grain he had ordered them to supply. The testimony of citizens of Aetna showed that the state in this one year gave 300,000 *modii* of wheat and 50,000 sesterces besides, as a *lucrum* for Apronius.<sup>4</sup> This was further substantiated by the statements of the *aratores* of Centuripæ, who at the time were cultivating the greatest part of the district of Aetna.<sup>5</sup> They sent three representatives to Rome to appear at the trial of Verres. In the case of Leontini a peculiar local condition made it difficult to obtain evidence, namely the fact that in the district of Leontini none of the citizens, with the single exception of the family of Mnasistratus,

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<sup>1</sup> III, 102, 103.

<sup>2</sup> III, 104.

<sup>3</sup> III, 105.

<sup>4</sup> III, 106.

<sup>5</sup> III, 108. "*Qui agri Aetnensis multo maximam partem possident.*" It is impossible to tell from *possident* whether they owned or rented the land. Of all the Sicilians the Centuripini were the most extensive planters. "*Arant enim tota Sicilia fere Centuripini, . . . quod in omnium fere finibus possessiones habent.*" This may mean that they actually owned land in all parts of the island. That they farmed as tenants is shown by the case of Nympho of Centuripæ (III, 53). See p. 69 ff.

were in possession of any land, either as owners or renters.<sup>1</sup> Therefore they not only experienced no losses by reason of the extortions of Apronius, but Cicero hints that they even profited thereby. In the third year the *decumae* of the district were sold for 216,000 *modii* of wheat.<sup>2</sup> From this circumstance, by the following calculation, Cicero endeavors to show that Verres's profits from this single district, in the one year, were approximately 400,000 *modii*.<sup>3</sup> The average ratio of the sowing in the district of Leontini was a *medimnus* to the *jugerum*.<sup>4</sup> The usual return was eight-fold, but in an extraordinarily good season, ten-fold. In the latter case then, the *decuma* was exactly equivalent to the amount of the sowing; that is, as many *medimni* were due as the number of *jugera* under cultivation. In this district that number was not more than 30,000.<sup>5</sup> The tithes had been sold for 36,000 *medimni*;<sup>6</sup> therefore, even if the maximum crop were produced, Apronius was facing a loss of 6,000 *medimni* if he collected only what was due. But the governor's favorite had not been blind to this fact, and he proceeded to extract not less than three tenths from every *arator*, and from many, four and five.<sup>7</sup> Finally the cultivators sent a representative, Andro

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<sup>1</sup> III, 109.

<sup>2</sup> III, 110.

<sup>3</sup> III, 111.

<sup>4</sup> III, 112.

<sup>5</sup> III, 113. Cf. Long, p. 393 ff., for a comparison of the Sicilian sowing and harvest with English conditions.

I am indebted to Professor John C. Watson of the University of Nevada for the following data on the wheat-raising industry of North Dakota. They throw an instructive light on the improved methods which have come into vogue since Cicero's day. The average sowing now made is from four to five pecks an acre. The Sicilian practice, according to Cicero (estimating the *medimnus* as 6 pecks and the *jugerum* as  $\frac{1}{6}$  of an acre) was to sow more than nine pecks to the acre. The lowest average yield in North Dakota is 10 or 11 bushels per acre. In 1915 it was hardly less than 17 and may have been 18, with certain sections producing as high as 30 bushels to the acre, on a conservative estimate. Cicero says that a ten-fold yield in Sicily was considered extraordinary. Thus it appears that modern agricultural methods, by the use of half as much seed, produce under the most unfavorable conditions as good a yield as the primitive Sicilian methods did under the best conditions.

<sup>6</sup> III, 110.

<sup>7</sup> III, 114.

of Centuripae, to plead with Apronius that it might be granted as a special favor that no one should be compelled to pay more than three *medimni* per *jugerum*—that is, three times as much as he was legally liable for.<sup>1</sup> This "concession" was obtained with some difficulty. On this basis his gain from the 30,000 *jugera* would be 90,000 *medimni*, i.e., 540,000 *modii*.<sup>2</sup> Deducting the 216,000 *modii* for which he had bought the tithes, leaves 324,000 *modii* as his net gain. But on the total collection of 540,000 he exacted three-fiftieths besides,<sup>3</sup> or 32,400 *modii*. This added to 324,000 gives 356,400<sup>4</sup> *modii*, leaving 43,600 *modii* of the 400,000 which Cicero set out to establish, still unaccounted for. This, he states, is easily substantiated, as many *aratores* were compelled besides to pay in cash two sesterces the *medimnus*, others one and a half, and none less than one. At the minimum figure, 90,000 sesterces<sup>5</sup> would be accounted for, equal (at 15 sesterces the *medimnus*<sup>6</sup>) to 6,000 *medimni* or 36,000 *modii*, and this added would bring the grand total to 392,400 *modii*, very near the 400,000 mark. The latter figure could be easily attained by including in the computation the many instances of the collection of more than three *medimni* per *jugerum* from those who were not allowed to take advantage of the concession gained by Andro.<sup>7</sup> The amount thereby gained appears as not far from one million sesterces. In tabulated form, the computation is as follows :

	Amount in Med.	Amount in Mod.	Value in Sesterces
Gross gain from collection of 3/10 from 30,000 <i>jugera</i> .....	90,000	540,000	1,350,000
Sale price of <i>decumae</i> to Apronius, stated as....	36,000	216,000	540,000
Net gain on 3/10.....	54,000	324,000	810,000
Additional gain by levy of 3/50 on 30,000 <i>jugera</i> .....	5,400	32,400	81,000
Additional gain at 1 sesterce per <i>med.</i> on 90,000 <i>med.</i> .....	6,000	36,000	90,000
Grand total gain.....	65,400	392,400	981,000

<sup>1</sup> III, 115.<sup>2</sup> III, 116.<sup>3</sup> Probably as *lucrum*.<sup>4</sup> Cicero gives the approximate figure *CCCLX*.<sup>5</sup> III, 116.<sup>6</sup> Cf. p. 76, n. 3.<sup>7</sup> III, 116.

Thus it appears, as Cicero states, that Verres took for himself out of this district more than twice as much as he sent to Rome.<sup>1</sup> For the strict tithe, which of course was all that was delivered to the capital, yielded only 30,000 *medimni*, whereas the governor's total gain was 65,400 *medimni*.

By petty additions of 2,000 or 3,000 sesterces to the *decumae* of each district, he increased his gains by a sum which Cicero estimates as 500,000 sesterces for the three years.<sup>2</sup> Again the prosecutor warns the people of Rome not to be deceived by the claim that Verres had sold the *decumae* at a high rate, thereby benefiting the mother country. For the reduction in revenue, sure to result from the wholesale abandonment of farms by the discouraged *aratores*, would more than counterbalance any temporary advantage.<sup>3</sup> The *Lex Hieronica* required the listing of the names of the *aratores* for each year, so that it was possible to show by the unimpeachable testimony of documentary evidence that during the three years the number in the district of Leontini had been reduced from 84 to 32 ; in the district of Mutuca from 187 to 86 ; at Herbita from 252 to 120 ; at Agyrium from 250 to 80.<sup>4</sup> Those who had not fled had continued their agricultural operations on a greatly reduced scale.<sup>5</sup> As already mentioned,<sup>6</sup> the tide of emigration was turned only by the letters which Metellus wrote from Rome, promising an improvement in conditions.<sup>7</sup> Furthermore Metellus, though a friend of Verres, testified in letters to Pompey and Crassus, consuls for the year 70, to M. Mummius the praetor, and to the city quaestors, that he had found it impossible to sell the *decumae* at a price as high as Verres had secured,<sup>8</sup> because he had found the farms deserted, the fields empty, and the province generally in a wretched and

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<sup>1</sup> III, 117.

<sup>2</sup> III, 118.

<sup>3</sup> III, 119.

<sup>4</sup> III, 120.

<sup>5</sup> III, 121.

<sup>6</sup> Cf. p. 68 ff.

<sup>7</sup> III, 121.

<sup>8</sup> III, 123.

ruined condition.<sup>1</sup> Cicero even cites instances of the suicide of *aratores*, the responsibility for which he lays at the governor's door. Diocles of Centuripae, a wealthy citizen, hanged himself on the day when it was announced that Apronius had bought the *decumae*.<sup>2</sup> At Helorus a certain Archonidas testified that Tyracinus, a prominent citizen of that place, had made way with himself in the same fashion upon hearing that the *decumanus* had declared that according to the praetor's edict he, Tyracinus, owed him a sum greater than the entire value of his property.<sup>3</sup>

That a partnership of plunder between a provincial governor and the *decumani* was the greatest misfortune that could befall a province is easy to understand.<sup>4</sup> Cicero endeavors to prove out of the mouth of Apronius himself the existence of such a partnership during Verres's three years in Sicily. For Apronius and the other *decumani* stated openly, with no attempt at concealment, that very little of these great gains came to them; the praetor was their partner.<sup>5</sup> This accusation<sup>6</sup> never elicited any reply from Verres,<sup>7</sup> blinded to his own danger by the possibilities of enriching himself. A charge was even brought against Apronius at Syracuse by P. Rubrius to the effect that he had frequently stated that Verres was his partner in the business of farming the revenues.<sup>8</sup> Even this formal charge was ignored, the affair was hushed up, and never came to trial.<sup>9</sup> But the same charge was made again by P. Scandilius, a Roman *eques*,

<sup>1</sup> III, 124. "*Cur igitur, Metelle, non ita magno vendidisti? Quia desertas arationes, inanis agros, provinciam miseram perditamque offendisti.*"

<sup>2</sup> III, 129. In the heat of polemic discussion the fallacy of *post hoc ergo propter hoc* is not uncommon, and Cicero may be guilty of it here, as he adduces no evidence to show that the two events were causally connected.

<sup>3</sup> III, 129.

<sup>4</sup> III, 130. Cf. p. 69, n. 6.

<sup>5</sup> Ibid.

<sup>6</sup> Public officials were prohibited by law from participating in the *societates publicanae*. See p. 62.

<sup>7</sup> III, 131.

<sup>8</sup> III, 132.

<sup>9</sup> III, 132-134.



security was given for 5,000 sesterces, and the plaintiff began to demand *recuperatores* or a judge.<sup>1</sup> It seemed for the moment that Verres was cornered, to the extent that he must let the trial proceed or else admit that he would necessarily be convicted. The law provided that the *recuperatores* should be appointed from the *conventus* of Syracuse, and on the evidence, known to everyone, they could hardly decide in any way but for the plaintiff.<sup>2</sup> But the faithful retinue was still available, and from its number Verres announced that he would appoint the judges. Scandilius demanded appointments from the whole *conventus*, but the governor replied that he would not entrust a case in which his own reputation was at stake to anyone except his own followers,<sup>3</sup> thus admitting the hopelessness of an acquittal in a just trial. Scandilius then proposed to refer the case to Rome,<sup>4</sup> which proposition Verres promptly rejected, frankly admitting that he realized his own unpopularity in the capital. Scandilius, discouraged, stated that he would drop the charge,<sup>5</sup> but he was made to feel the governor's displeasure by being forced to pay to Apronius the 5,000 sesterces required as security.<sup>6</sup>

The existence of such a partnership would furnish an adequate motive for refusing to sell the *decumae* to the highest bidder when that bidder was not Apronius. Such a case Cicero cites in the awarding of the tithes for the third year in the district of Leontini where, as already stated,<sup>7</sup> Apronius bought them for 216,000 *modii*. And yet another bidder, Q. Minucius, offered 30,000 *modii* more than Apronius.<sup>8</sup> The fact that so large an immediate gain was disdained, would go far to prove the size of the profit Verres expected to make.<sup>9</sup> Also Minucius himself would hardly have been likely to offer any such unprecedented price if he had not scented the prospect of unprecedented gains, attained by use of the governor's methods. Finally the undisputed fact that the *decumae* were sold for 30,000 *modii* less

<sup>1</sup> III, 135.<sup>2</sup> III, 136.<sup>3</sup> III, 137.<sup>4</sup> III, 138.<sup>5</sup> III, 139.<sup>6</sup> III, 140.<sup>7</sup> See p. 80.<sup>8</sup> III, 148.<sup>9</sup> III, 150.

than could have been obtained, would effectually dispose of the defense that Verres had benefited Rome by obtaining the highest possible prices for the tithes, even though he might claim that the contract with Apronius had been made before Minucius offered the advance.<sup>1</sup>

After the arrival of Metellus in the province still another attempt was made to bring Apronius to justice, but with no greater success than under the previous administration. Cicero hints at bribery of the retinue of Metellus, in the statement that Verres had rendered them all his friends "by use of that sovereign remedy of his," money.<sup>2</sup> He expressly states, however, that Metellus was incorruptible.<sup>3</sup> The plaintiff against Apronius was a senator, C. Gallus, who demanded a judgment on the ground of Metellus's own edict. For the new governor had announced that he would hear cases under the *Formula Octaviana*,<sup>4</sup> which provided four-fold restitution to him who had suffered the loss of property *per vim aut metum*, a principle which Metellus had already recognized during his *praetura urbana*. But the latter, readily realizing that any successful suit against Apronius would be an implicit condemnation of Verres and would therefore be highly prejudicial to his case when it came to trial at Rome, refused to allow the suit to be brought at all. By this very refusal he thereby passed judgment on his predecessor and further strengthened the proof of the partnership existing between Verres and Apronius.<sup>5</sup>

If any proof of that partnership were still wanting, it was supplied by a letter from Timarchides to Apronius which Cicero

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<sup>1</sup> III, 151.

<sup>2</sup> III, 152. "*Suo illo panchresto medicamento.*"

<sup>3</sup> III, 158.

<sup>4</sup> This principle of "*Actio quod metus causa*" was probably introduced by L. Octavius, praetor about 79 B.C. and consul in 75. After Sulla's death in 78, this *actio* was applied to compel persons to make restitution who, during Sulla's time, had acquired the property of others through violence. (Cic. ad Q. Frat. I, 1, 7). For a detailed discussion of it, see Long, pp. 397-404, an excursus which is practically a translation of an article by Rudorff (*Zeitschrift für Gesch. Rechtswissenschaft* XII, 131 ff.).

<sup>5</sup> III, 153.

found in the latter's house at Syracuse when he was engaged in collecting evidence.<sup>1</sup> The letter affords an interesting insight into the underground methods used by Verres and his retinue to forestall the consequences of their operations.<sup>2</sup> Apronius is urged to insinuate himself into the good graces of Metellus, to obtain a hold on the new clerks and attachés, to corrupt and use L. Volteius, an influential member of the suite of Metellus, with whose help all would be "child's play," to use with each man the means most likely to influence him, and above all to endeavor to counteract the common belief that Apronius, as the praetor's agent, had ruined the *aratores*. The letter closes with the appeal, "Make him (Metellus) understand the dishonesty of the *aratores*; they shall suffer for it if the gods will."<sup>3</sup> With the reading of this letter Cicero brings to a close his discussion of the *decumae*.<sup>4</sup>

*B—The Frumentum Emptum.*

As already mentioned,<sup>5</sup> the prosecutor makes a three-fold division of the general subject of this chapter, the second being a consideration of the *alterae decumae*, or *frumentum emptum*, an additional demand which might be made on the *aratores* after the payment of the regular tithe,<sup>6</sup> but with this difference. *Frumentum emptum*, as its name implies, was *not* a tax, but

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<sup>1</sup> III, 154. The text of this remarkable letter, as reconstructed from §§154-157, and stripped of Cicero's ironic and often irrelevant and petty comment, is as follows: "*Timarchides, Verris accensus, Apronio salutem dicit. Fac diligentiam adhibeas, quod ad praetoris existimationem attinet. Habes virtutem, eloquentiam. Habes sumptum unde facias. Scribas, apparitores recentis arripe; cum L. Volleio, qui plurimum potest, caede, concide. Volo, mi frater, fraterculo tuo credas. In cohorte carus habebere. Quod cuique opus est, oppone. Te postulante omnes vincere solent. Scis Metellum sapientem esse. Si Volleium habebis, omnia ludibundus conficies. Inculcatum est Metello et Volleio te aratores evertisse. Obtulerunt ejus aures te socium praetoris fuisse. Fac sciat improbitatem aratorum; ipsi sudabunt, si di volent.*"

<sup>2</sup> III, 157.

<sup>3</sup> Ibid.

<sup>4</sup> III, 163.

<sup>5</sup> See p. 63.

<sup>6</sup> Under the *Lex Terentia Cassia*, B.C. 73.

rather a device which furnished to Rome the opportunity of *purchasing* grain for additional needs, at a specified rate of three sesterces a *modius*, or 18 sesterces a *medimnus*.<sup>1</sup> To this demand the *Civitates Decumanae* alone were liable. But from a second form of the *frumentum emptum*, technically called *frumentum imperatum*, no community was exempt.<sup>2</sup> The price specified for this grain was  $3\frac{1}{2}$  sesterces a *modius*, or 21 sesterces a *medimnus*.<sup>3</sup> The amount of grain thus obtained for Rome, together with its value, is stated by Cicero as follows :<sup>4</sup>

	<i>Modii</i> (Annual)	Sesterces (Annual)	Sesterces (3 years)
<i>Alterae Decumae</i> (at HS 3 per <i>mod.</i> )-----	3,000,000	9,000,000	27,000,000
<i>Frumentum Imperatum</i> (at HS $3\frac{1}{2}$ per <i>mod.</i> )-----	800,000	2,800,000	8,400,000
Total-----	3,800,000	11,800,000	<sup>5</sup> 35,400,000

From the fact that a tithe of the whole crop of the *Civitates Decumanae* was 3,000,000 *modii*, we are enabled to estimate the total annual crop as 30,000,000 *modii* or 5,000,000 *medimni*.<sup>6</sup>

In connection with the *frumentum emptum*, Cicero enumerates three classes of offenses of which the governor was guilty.<sup>7</sup> The first was the loaning out at the enormous rate of 24%<sup>8</sup> of some of the funds entrusted to him (11,800,000 sesterces annually) to the very *societates publicanae* on which he had received an order

<sup>1</sup> III, 163.

<sup>2</sup> This is regarded as probable by Marquardt (II, p. 183) and is proved by Holm (G. S. III, 381) by reference to III, 170 ff., in the cases of Halaesa, Thermae, Cephaloedium, Amestratus, Tyndaris and Herbita, which were all (except Halaesa) *Civitates Decumanae*.

<sup>3</sup> III, 163.

<sup>4</sup> Ibid.

<sup>5</sup> Sihler (op. cit., p. 80) fails to note that this payment of nearly 12,000,000 sesterces was *annual*, and that the total sum for the three years was three times as much.

<sup>6</sup> This was not, of course, the total crop of the island, as it does not include the *Civitates Censoriae* the *Liberæ ac Immunes*, or the *Fœderatae* (cf. Rostowzew, Pauly-Wissowa VII, 129 ff.).

<sup>7</sup> III, 165.

<sup>8</sup> " *Binae centesimae* " is universally interpreted as 2% a month. As Sihler notes (p. 81), he could hardly have loaned it for one whole year.

for payment.<sup>1</sup> The second was the failure to pay anything at all for their grain to many of the cities. The third was his practice of arbitrarily deducting considerable sums in cases where he did make payments, so that in no instance was an obligation fully liquidated.<sup>2</sup>

The illegal loaning of public funds at a usurious rate was indicated by some correspondence discovered by Cicero in the house of Carpinatius<sup>3</sup> at Syracuse, and at Rome in the house of L. Tullius, another manager of the company. The letters were written by L. Vettius Chilo, Verres's brother-in-law,<sup>4</sup> P. Servilius, and C. Antistius, company managers, and they contained the statement that Vettius would be present to audit the making up of the governor's accounts to the public treasury, "so that, if you do not restore to the people this money which has been put out at interest, you shall restore it to the company."<sup>5</sup> Vettius further stated that the clerk of Verres performed all the book-keeping in connection with the illegal loans.<sup>6</sup> Thus the circumstantial evidence of the embezzlement was strong, and such manoeuvres in the field of finance would be by no means out of keeping with the methods of Carpinatius described in the previous chapter.<sup>7</sup>

A favorite practice of Verres was to reject the grain furnished him as not of standard quality, and then to collect his own price from the city concerned, in lieu of the payment of grain. This constitutes the second offense mentioned by Cicero in connection with *frumentum emptum*, and he illustrates it by the case of Halaesa, the details of which were furnished him by Aeneas, a senator of the place.<sup>8</sup> Verres ordered Halaesa to furnish 60,000

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<sup>1</sup> "*Unde erat attributa (pecunia).*" Cf. Long, p. 356.

<sup>2</sup> Cf. Div., 32.

<sup>3</sup> III, 167. Carpinatius was field agent (*sub-magister*) of one of the *societates publicanae*. See p. 54 ff.

<sup>4</sup> III, 168.

<sup>5</sup> III, 167.

<sup>6</sup> III, 168.

<sup>7</sup> See p. 54 ff.

<sup>8</sup> III, 170.

*modii* annually (*frumentum imperatum*) and drew the funds to pay for it—210,000 sesterces<sup>1</sup>—from the public treasury. This sum he appropriated to his own uses, and when the grain was brought, refused to receive it as not up to standard. Instead he insisted on a cash payment on the basis of the market price,<sup>2</sup> which payment the records of Halaesa showed to have been made to his agents, Volcatius and Timarchides.<sup>3</sup> So that, instead of buying grain, he sold it, and that which he was required to send to Rome as the tithe of Halaesa he simply subtracted from his other plunder. The same subterfuge was used at Cephaloedium, Thermae, Amestratus, Tyndaris, Herbita and other cities.<sup>4</sup> That the rejection of grain was not *bona fide* was made probable by the fact that no previous rejection was recorded. This probability was made almost a certainty by the fact that from the same land, in the same year, the first *decumae* had been accepted by the company managers and sent to Rome. Then later grain "from the same barn" was rejected by the governor.<sup>5</sup> With regard to the exaction of money instead of the grain for which he had received government funds, Cicero trenchantly asks, "Did the *Lex Terentia* enjoin upon you the purchase of grain from the Sicilians with the money of the Sicilians or with the money of the Roman people?"<sup>6</sup> In effect, Verres did both, collecting the market price of 15 sesterces the *medimnus* from the provincials, and in his accounts with Rome entering a charge of 21 sesterces the *medimnus*.<sup>7</sup>

The third offense in connection with *frumentum emptum* was that of making arbitrary deductions in cases where payments were made to cities for the extra tithes, so that in no instance

<sup>1</sup> At the rate of HS 3½ per *modius*. (Cf. p. 87).

<sup>2</sup> At the usual rate of HS 15 per *medimnus*, the amount would be 150,000 sesterces. (See III, 173).

<sup>3</sup> III, 171, 175.

<sup>4</sup> III, 172.

<sup>5</sup> Ibid.

<sup>6</sup> III, 173.

<sup>7</sup> III, 179. The latter figure was the one named in the *Lex Terentia Cassia* for *frumentum imperatum*; i.e., HS 3½ per *modius* (cf. p. 87).

was the full amount received, either by communities or individual *aratores*.<sup>1</sup> Four varieties of *deductiones* are enumerated by the prosecutor, all of which he represents as illegal.<sup>2</sup> They were: (1) *Spectatio*, or the fee for formal inspection either of the grain itself, of the money paid for it, or both; (2) *Collybus*,<sup>3</sup> the fee for money changing, plainly an unnecessary expense in a land where all used the same money; (3) *Cerarium*, "the fee for sealing," as to the exact nature of which we are left in doubt by Cicero's admission of ignorance concerning it;<sup>4</sup> (4) the appropriation of 4%<sup>5</sup> from the total sum for the "services of the clerks," officials who received by law a salary—though a small one—directly from Rome.<sup>6</sup> Of the four *deductiones*, the first three were petty, the fourth almost unbelievable. That such an appropriation for clerks was entirely contrary to precedent, Cicero, as former quaestor of Lilybaeum, was in a position to know, and he testifies directly to that effect.<sup>7</sup> The total sum abstracted in this way is named as 1,300,000 sesterces.<sup>8</sup> Cicero makes much of the fact that the *scriba* of Verres was publicly presented by his master with a gold ring,<sup>9</sup> an honor usually bestowed upon conquering generals, but presented to this man as an evidence "not that he had been brave, but only that he had become rich."<sup>10</sup>

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<sup>1</sup> III, 165, 180.

<sup>2</sup> III, 181, 182.

<sup>3</sup> A rare word (Gk. κόλλυβος) meaning primarily, the exchange of money, and secondarily, the rate of exchange. It occurs in one other place in Cicero, (ad Att. 12, 6, 1). Cf. Thesaurus Lat. Ling. III, 1667.

<sup>4</sup> "*Cerarium vero—quid?*" The word is found nowhere else. Cf. Thesaurus III, 854.

<sup>5</sup> *Binae quinquagesimae*, two fiftieths.

<sup>6</sup> III, 182.

<sup>7</sup> Ibid.

<sup>8</sup> III, 184. This is approximately 4% of 35,400,000 sesterces (cf. p. 87).

<sup>9</sup> III, 176, 185-187.

<sup>10</sup> III, 187. The bestowal of the ring was, of course, of small importance compared with the magnitude of the peculations. But for rhetorical purposes it was more effective, and Cicero expatiates at length upon it ("spricht pathetisch"—Holm), even going so far as to compose a burlesque formula for the conferring of the gift.

## C—The Frumentum Aestimatum.

The final demand which could legally be made upon the provincials was that for the grain which the praetor might store up for the use of himself and his household,<sup>1</sup> therefore called *frumentum in cellam*, or *frumentum aestimatum*, the consideration of which forms the third and last part of the oration *De Frumento*. By senatorial decree the price to be paid was fixed at 4 sesterces a *modius* of wheat, and 2 sesterces a *modius* of barley, and enough funds were furnished the praetor to enable him to purchase at the stated price sufficient grain for the use of his household, the amount being estimated beforehand and included in his annual budget.<sup>2</sup> In practice, to save unnecessary expense of transportation, it had been customary before Verres's time to have this grain compounded for in a cash payment,<sup>3</sup> originally a concession to the *aratores* on the part of the magistrates. With the fact that Verres followed the custom and exacted a cash payment, the prosecutor can find no fault. But not content with the money payment on the legal basis, Verres increased the amount enormously, first by claiming the right to a larger number of *modii* than that to which he was entitled,<sup>4</sup> and secondly by raising the basis of valuation from 4 sesterces a *modius* of wheat to 2 *denarii*, or 8 sesterces.<sup>5</sup> This would make the rate 48 sesterces

<sup>1</sup> III, 188. Cf. p. 63.

<sup>2</sup> Ibid.

<sup>3</sup> III, 189.

<sup>4</sup> According to III, 225, five times the legal amount was exacted, but the statement is unsupported by any figures or further data.

<sup>5</sup> III, 188. Cicero here and in §§189, 191-194, 225, states the price exacted as 3 *denarii* or 12 sesterces the *modius*. But in III, 197, it is twice plainly stated that the price was 2 *denarii*, or 8 sesterces; so again in §201. The only possibility of reconciling the two is to follow the explanation of Holm (G. S. III, 418), who convicts Cicero of a sophistical juggling of the figures here, in that the prosecutor includes in the price the one *denarius* per *modius* which the senate granted the governor and which the latter appropriated as gain, so as to make it appear that the governor's total gain of 3 *denarii* per *modius* was derived wholly from the *aratores*. Cicero has nowhere been guilty of falsifying, but only of presenting a half-truth which involves a misrepresentation. Neither Long nor Zumpt seems to have noticed the inconsistency.



the *medimnus*, four times the lowest market price of 12 sesterces the *medimnus*, and over twice the highest market price of 18 sesterces the *medimnus*.<sup>1</sup> Cicero recognizes the practice of Roman governors in other provinces (Asia and Spain) of requiring the provincials to deliver the *frumentum aestimatum* at that place in the province where the price was highest, which in practice amounted to collecting the highest possible sum as a cash payment.<sup>2</sup> Therefore it was necessary for Verres to show, in order to prove any claim that he had only followed the example of other governors, that at any place in Sicily during his administration a *modius* of wheat ever cost 3 *denarii*,<sup>3</sup> a manifest impossibility. According to precedent, an honest man would have taken one of three courses :<sup>4</sup> (1) he would have bought his grain at the regular price and returned the surplus to Rome ;<sup>5</sup> (2) he would have paid 21 sesterces the *medimnus*, regardless of the market price ; or (3) he would have made a profit, but still an honorable one, permitted by custom, by appropriating to his own use the difference between his allowance and the price at which he purchased. But such a profit was too petty to attract Verres, and to meet his last exaction many of the *aratores*, already weakened by the payment of excessive *decumae* to Apronius and by the failure to receive full payment for *frumentum emptum*, were forced to sell their farm equipment.<sup>6</sup> That is, the total of the amounts exacted from them was greater than the value of their crops.<sup>7</sup>

A certain Sositheus, senator of Entella, had informed Cicero

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<sup>1</sup> III, 188.

<sup>2</sup> III, 191-194. Cicero does not defend this abuse, nor yet does he admit its legality. But because it was founded on precedent he does not make it a point in the prosecution.

<sup>3</sup> III, 193, 205, 207.

<sup>4</sup> III, 195.

<sup>5</sup> There was sure to be a surplus, as the governor's allowance was on the basis of HS 21 the *medimnus*. Cicero names L. Piso Frugi, consul B.C. 133, (III, 195) as an example of one who had followed this highly honorable course.

<sup>6</sup> III, 198.

<sup>7</sup> III, 199.

that the Sicilians, choosing the lesser evil, were prepared to offer to furnish *frumentum in cellam* absolutely gratis, rather than submit to further extortions which the custom of exacting cash payments made possible.<sup>1</sup> It would be greatly to the advantage of an *arator* who was liable for 1,000 *modii*, and therefore for a cash payment of 2,000 or, at most, 3,000 sesterces, to furnish the stipulated amount of grain gratis, rather than to pay the 8,000 sesterces which Verres exacted.<sup>2</sup> Cicero rightly argues that if any such rate were just and equitable, or even possible, it ought to be exacted for the *decumae* and not confined to the *frumentum aestimatum* alone, so that Rome might get the benefit of the greatly increased revenue.<sup>3</sup> That any historical precedent could be cited for such misuse of the privileges granted by the right to collect *frumentum in cellam*, the prosecutor defies Verres to show.<sup>4</sup> Neither C. Marcellus, praetor in B.C. 80 and later proconsul in Sicily, nor his predecessor in the office, M. Lepidus, had been guilty of any extortion.<sup>5</sup> M. Antonius, who was in Sicily in B.C. 74, when Sacerdos was praetor, and apparently the next year also,<sup>6</sup> had not so good a record. Though he was not governor, he seems to have practiced extortions and unjust dealings in a manner second only to Verres. Sacerdos, the immediate predecessor of Verres, had relieved the *aratores* in a time of financial stress by accepting 3 *denarii* the *modius* when the market price was as high as 5 *denarii*.<sup>7</sup> So that, while the actual price was the same which Verres exacted,<sup>8</sup> the different circumstances made the one an act of concession, the other, of oppression.<sup>9</sup> Sextus Peducaeus, propraetor of Sicily B.C. 76-75, enriched himself in his second year as a consequence of a famine and the attendant high prices, either by collecting the current price or by actually receiving the grain and selling it himself at the current price.<sup>10</sup> Such a practice, which appears to us a monstrous abuse, was regarded as perfectly legitimate so long as no extor-

<sup>1</sup> III, 200.<sup>2</sup> III, 201.<sup>3</sup> III, 202, 203.<sup>4</sup> III, 209-211.<sup>5</sup> III, 212.<sup>6</sup> Div. 55 ; II, 8 ; III, 213.<sup>7</sup> III, 214.<sup>8</sup> See p. 91, n. 4.<sup>9</sup> III, 215, 216.<sup>10</sup> III, 216.

tion in the strict sense was attempted. The same circumstances in Macedonia enabled C. Sentius, praetor there not long before B.C. 70, to enrich himself, but without incurring any reproach whatever.<sup>1</sup> "I do not begrudge you your profits," says Cicero, "if any have come to you legally; it is your injustice of which I complain, your dishonesty that I impeach, your avarice that I call into court and arraign."<sup>2</sup> Such a precedent, if the offender went unscathed, could only serve to incite others to still greater enormities.<sup>3</sup>

Drumann,<sup>4</sup> writing in 1841, exclaims, "What a conception this oration gives of the industry and prosperity of the Sicilians! No Verres could plunder the island for three years now." The latter statement would hardly be true today, as great strides have been taken in recent years, and the island is once more highly productive.<sup>5</sup> But the picture which Cicero paints of the condition of the province in the time of Verres, even after it had undergone the devastating experiences of the Carthaginian and slave wars, shows that its traditional title was not unmerited—that it was well named "The Granary of Rome."

Such is the story of the most colossal of the abuses of the three years' administration. From no other source is it possible to acquire so vivid and detailed an account of the practices which made the names of Roman governors hated throughout the provinces. That Verres was an extreme example of the type is highly probable. Yet who can doubt that, in the great trial of the year 70, Cicero was prosecuting not only the individual but the whole system of spoliation of the provinces? That such was the case will appear later.<sup>6</sup> Meanwhile we have to turn to another specific aspect of the governor's activities.

<sup>1</sup> III, 217.

<sup>2</sup> Ibid.

<sup>3</sup> III, 218-222.

<sup>4</sup> *Geschichte Roms*, V, p. 290, n. 11.

<sup>5</sup> See Réclus, *Universal Geography* I, 322-323. The value of the Sicilian orange crop alone is stated as two million pounds sterling annually, approximately equal to 250,000,000 sesterces.

<sup>6</sup> See Chapter VII.

## CHAPTER V.

### ADMINISTRATION IN SICILY (B.C. 73-71) (DE SIGNIS).

It was during his quaestorship under Dolabella that Verres first appeared in the character of an art-lover and a collector, when from Achaia and Asia Minor he brought together a considerable number of fine statues, mostly seized from temples by the simple act of confiscation.<sup>1</sup> Sicily, as a center of Greek culture, offered extraordinary opportunities for the acquiring of such statues and of other products of artistic activity, such as paintings, embossed plate, jewels, bronzes, and tapestries. Of these opportunities the governor was not slow to avail himself, and it is with the illegal seizure of works of artistic as well as intrinsic value, mostly statues, that Cicero deals in the fourth oration of the *Actio Secunda*, entitled therefore, *De Signis*.

Nowhere else does the prosecutor make so evident an effort to arouse prejudice against Verres personally. For, entirely aside from the illegality of the seizures of works of art, a phase which is almost lost sight of at times, Cicero endeavors to belittle the governor simply on the ground that he was, or pretended to be a lover of such things, a charge which to the art-despising Roman public was almost as valid as the actual one. This he does in two ways, first by systematically contemptuous references to what he endeavors to represent as a pathological condition, an obsession, and a disease.<sup>2</sup> Thus the prosecutor carefully cultivates for his own purpose the intolerance of all things Greek so characteristic of the Romans of the Republic before Cicero's time, and handed down as a tradition to his day.<sup>3</sup> To this end he represents Verres as a gross, wholly ignorant man, entirely incapable of any finer sensibilities,<sup>4</sup> least of all of any

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<sup>1</sup> See p. 7, ff.

<sup>2</sup> IV, 1.

<sup>3</sup> Even Vergil in the famous lines in Aen. VI, 847-854, (*Excudent alii spirantia mollius aera*—) disclaims any artistic eminence for Rome.

<sup>4</sup> This impression is intended to be deepened by the frequent puns on the name Verres, with its swinish connotation.

aesthetic taste, who, affecting to be a connoisseur, seized in wholesale fashion all the art treasures he could lay his hands on, because he understood that they had a cash value. In fact the prosecutor imputes to him exactly the attitude of the modern native searcher for antiques in Mediterranean and eastern countries. It is not that the native wishes them for himself, nor that he could appreciate them if he did. His only ambition is to get a good price for them from the nearest archaeologist. Thus we saw in connection with the repairs on the temple of Castor<sup>1</sup> that Verres was represented as totally ignorant of any of the details of architecture and as receiving from one of his retinue the useful information that no column is absolutely perpendicular. Likewise in the *De Signis*, the gibes at his "pretensions" are frequent and extravagant, and it is stated in all seriousness that he was wholly dependent, in matters of estimating the artistic value of any object, upon the judgment of two Greek brothers, members of his retinue, whom he kept as hired experts.<sup>2</sup> Elaborately ironical references to "this clever and discriminating man"<sup>3</sup> as opposed to "us, whom he calls the common herd,"<sup>4</sup> can only be intended to appeal to the popular prejudice—now largely an affectation—against the arts of Greece, to which for so many generations Romans had been strangers.

The second method which Cicero employs to appeal to Roman disdain of objects of artistic beauty is to ally himself, for the purposes of the moment, with those whose feelings in that direction were the product, not of an affectation of old republican simplicity, but of actual ignorance. In pursuance of this purpose, he assumes a tone of tolerant condescension toward the most famous masterpieces of Greek art, even going so far as to pretend unfamiliarity with the names of their creators. In de-

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<sup>1</sup> See p. 22.

<sup>2</sup> IV, 33.

<sup>3</sup> IV, 4. *Istum hominem ingeniosum et intellegendem.* Cf. IV, 98, 126.

<sup>4</sup> Ibid. *Quemvis nostrum, quos iste idiotas appellat.* Cf. II, 87, *nos, qui rudes harum rerum sumus.*

scribing the statues in the house of Heius of Messana, he says, "One of these was a marble Cupid of Praxiteles—you see that in preparing my case against Verres I have even learned the names of the artists.<sup>1</sup> . . . On the opposite side was a Hercules excellently molded in bronze. This is said to be the work of Myron, I believe—yes, that is the name, I am sure. . . . Furthermore there were two bronze statues, not very large but exceedingly beautiful, in the form and dress of maidens, with the hands raised and supporting some sacred objects which they bore on their heads after the manner of Athenian girls; 'Cane-phoroe' is what they were called, but what was the name of the artist?—who was it? Thank you for reminding me; they called him Polyclitus."<sup>2</sup> All of which is no doubt "very pretty fooling,"<sup>3</sup> but it certainly is not more than that. Whether Cicero had more than a superficial acquaintance with Greek art, may perhaps be questioned, but it would be entirely to miss the point of such persiflage if we for a moment took it too seriously. The orator's Greek training would hardly leave him at a loss for the great names connected with Hellenic culture, even though his interest in them and his appreciation of their importance might be considerably less than profound. On the other hand, that Verres possessed a more intelligent estimation of art as art, as well as a far greater interest in it than Cicero did, appears highly probable. A further discussion of this already much discussed subject is reserved for the close of the present chapter,<sup>4</sup> as it will be much more satisfactory to treat it after the presentation of all the evidence.

The prosecutor devotes the first part of his speech<sup>5</sup> to the consideration of seizures from private individuals, and the remainder to the confiscation of works which were the property of states.

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<sup>1</sup> IV, 4.

<sup>2</sup> V, 5.

<sup>3</sup> Strachan-Davidson, Cicero, p. 58.

<sup>4</sup> See p. 125 ff.

<sup>5</sup> IV, 3-71.

*A—Seizures from Private Individuals.*

The first case, treated at some length, is that of Heius of Messana, doubtless chosen because of the importance of the man himself, and also by reason of the fact that the Mamertines, as will appear, had been especially favored by Verres in many ways. Therefore an instance of the mistreatment of one of those who were considered his friends possessed a value doubly striking.<sup>1</sup> The splendidly adorned residence of Heius was one of the sights of Messana, an object of interest to tourists.<sup>2</sup> One of its most noteworthy features was a small chapel (*sacrarium*), sacred in an increased degree by reason of ancestral associations,<sup>3</sup> in which were four fine statues. The first was the marble Cupid of Praxiteles, probably a copy of the famous Eros of Thespieae, to see which was the ambition of all travelers to that city,<sup>4</sup> the work mentioned by Pausanias,<sup>5</sup> Strabo,<sup>6</sup> and Pliny.<sup>7</sup> Because of its sacred character it was spared by Lucius Mummius<sup>8</sup> when he carried away the other art treasures of the place. The second gem of the collection of Heius was a bronze Hercules by Myron.<sup>9</sup> Before these two statues stood small altars, indicating their sanctity. The other two statues, also of bronze, were Cane-phoroe<sup>10</sup> by Polyclitus.<sup>11</sup> These were not consecrated but were

<sup>1</sup> IV, 3.<sup>2</sup> IV, 5.<sup>3</sup> IV, 4. See Roszbach, *Das Sacrarium des Heius in Messana* (Rhein. Mus. LIV, 277-284) for a study of this chapel, illustrated by a plan to show its probable arrangement.<sup>4</sup> Cf. Bursian, *De Praxitelis Cupidine Pariano* (Jena, 1873) p. 3; also Hachtmann, K., *Die Verwertung der IV Rede Cic. gegen C. Verres für Unterweisungen in der Antiken Kunst* (Bernburg, 1895) pp. 10-14; 35-36.<sup>5</sup> I, 20.<sup>6</sup> IX, 2, 25.<sup>7</sup> N. H. XXXVI, 39.<sup>8</sup> Consul, B. C. 146.<sup>9</sup> IV, 5. Probably a copy of the Hercules mentioned by Pliny (N. H. XXXVI, 57) as standing in Rome *apud Circum Maximum in aede Pompei Magni*. Cf. Strabo XIV, 1, 14. On Myron and the Hercules see Hachtmann, op. cit., pp. 4-7, 39-41.<sup>10</sup> Of the type of the famous Caryatides of the Erechtheum.<sup>11</sup> See Hachtmann, op. cit., pp. 7-10; 41-42.

merely ornamental.<sup>1</sup> To these four may be added a ξόανον or ancient wooden cult statue of *Bona Fortuna*.<sup>2</sup> This *sacrarium* of the public-spirited Heius was open daily to visitors. The Cupid had adorned the Forum at Rome on the occasion of the brilliant games of C. Claudius Pulcher, curule aedile B. C. 99<sup>3</sup>. Being connected with the house of Heius by ties of hospitality, and being also a patron of the Mamertines, Claudius had borrowed the statue to grace the occasion, and he afterwards carefully returned it. The four wonderful figures Verres took from Heius's chapel, leaving only the antique wooden Fortuna.<sup>4</sup>

At this point in his discussion Cicero takes up the only possible defense which the governor could have made, namely the statement that he had not illegally seized the artistic treasures of Heius and others, but that he had purchased them and paid the price.<sup>5</sup> Any such defense the prosecutor proceeds to demolish by showing first, that such purchases by a provincial governor would be illegal in themselves, and second, that the alleged "prices" which Verres paid were ridiculously disproportionate to the worth of his "purchases." In support of the first contention he cites an old law which prohibited absolutely the practice of purchasing by provincial governors, except for the purpose of replacing a slave who died while accompanying his master in the province.<sup>6</sup> The evident purpose of the law was to provide against the abuses certain to spring up when the purchaser had the power to fix the

<sup>1</sup> IV, 18.

<sup>2</sup> IV, 7. Rossbach, *op. cit.*, p. 281, believes this stood within the *cella*.

<sup>3</sup> IV, 6. Cf. Pliny N. H. VIII, 19.

<sup>4</sup> IV, 7. Cicero jokingly says, "Good Fortune—he did not wish to have her in his house!" The real reason, Rossbach believes, (*op. cit.*, p. 279) was that he was deterred by regard for the sanctity of the antique, a consideration which does not seem always to have moved him. The figure was probably not beautiful, being of wood and antique in style, and may have been rejected solely for that reason.

<sup>5</sup> IV, 8.

<sup>6</sup> IV, 9. The later imperial usage to the same effect (Dig. 18-1, 46, 62) was probably founded on these earlier regulations. (Cf. Long, p. 412.)



price and the seller had no recourse.<sup>1</sup> In the second place, Heius was a wealthy man, involved in no financial difficulties which would necessitate parting with his ancestral treasures. No motive, then, could be shown for disposing of the statues except the temptation of a very favorable offer.<sup>2</sup> The price paid, according to the evidence of the governor's own accounts, was 6,500 sesterces,<sup>3</sup> of which the price specified for the Cupid of Praxiteles was 1,600 sesterces.<sup>4</sup> Both figures were, of course, so paltry as to make ridiculous any claim to a *bona fide* purchase.<sup>5</sup> "Have we not seen a bronze statue of no great size sold at auction for 40,000 sesterces?" asks the prosecutor.<sup>6</sup> Every feature of the acquisition of Heius's statues by Verres pointed, then, to coercion and force. Heius himself, the unwilling official head of a delegation of Mamertines, sent to Rome with a formal *laudatio* of Verres,<sup>7</sup> nevertheless testified in his private capacity that he had never put up his treasures for sale, and that he never could have been induced by any consideration to part with them voluntarily.<sup>8</sup> Furthermore he announced that he had no purpose of seeking restitution of any money, but only of his sacred statues, hallowed to him by their ancestral associations. "Keep the Canephoroe; restore only the images of the gods," was his appeal to Verres. In consequence of this defection of their leader, the Mamertine delegation despatched one of their number to Messana to report it to the senate and to ask for the punishment of Heius.<sup>9</sup>

It was hardly surprising that Messana, of all the Sicilian cities the one particularly favored by the governor, which he was wont

<sup>1</sup> IV, 10.

<sup>2</sup> IV, 11.

<sup>3</sup> IV, 12. Somewhat less than \$300.

<sup>4</sup> About \$70.

<sup>5</sup> IV, 13. "Thus a modern expert in art might refer to a Madonna of Murillo or Rafael, or a portrait by Dürer as 'sold' for a few hundred dollars." Sihler, *op. cit.*, p. 82, n. 2.

<sup>6</sup> IV, 14.

<sup>7</sup> IV, 15.

<sup>8</sup> IV, 16.

<sup>9</sup> IV, 18.

to call his *altera patria*,<sup>1</sup> should have endeavored to reciprocate by sending the delegation to Rome, charged with the duty of testifying to his worth. For Messana had been made the gathering-point and store-house of his booty until such time as it could be shipped to Rome.<sup>2</sup> A large transport had been built at public expense for that very purpose,<sup>3</sup> and a Mamertine senator appointed to superintend its construction. These favors Verres purchased by the arbitrary remission for three years of the 60,000 *modii* of wheat, which was Messana's annual allotment of the *frumentum emptum*, and which was simply transferred to the cities of Centuripae and Halaesa.<sup>4</sup> Likewise the requirement of one ship a year from Messana for the Roman navy was remitted, and no military service was exacted from the citizens.<sup>5</sup> In consequence of this tender consideration for their welfare at the expense of the rest of the province, the Mamertines instituted and first celebrated the *Verria*, an annual festival in the governor's honor.<sup>6</sup> It must be kept in mind in considering Cicero's arraignment of the Mamertines, that when he prepared it he was still inspired with resentment at the deliberate slight which had there been put upon him. For arriving at Messana with his cousin, Lucius Cicero, on the tour of Sicily which he made in the first months of the year 70 for the purpose of collecting evidence against the praetor, every form of official hospitality which he, as a senator, had a right to expect, was denied him.<sup>7</sup>

Some fine Attalic<sup>8</sup> tapestries belonging to Heius were also ap-

<sup>1</sup> IV, 17.

<sup>2</sup> IV, 23, 150.

<sup>3</sup> IV, 19, 23, 150.

<sup>4</sup> IV, 20; V, 52-56. These were cities of the *Liberæ ac Immunes* class (see p. 60) and were exempt from the payment of *decumæ*, though still liable for *frumentum emptum*.

<sup>5</sup> IV, 21, 23, 150; V, 44, 45, 51.

<sup>6</sup> IV, 24. Cf. II, 51 ff, 114, 154, 158 ff.

<sup>7</sup> IV, 25, 26.

<sup>8</sup> So called from one of the Attali, kings of Pergamum, who invented the process of interweaving tapestries with gold. (See Pliny N. H. VIII, 48, 196; *aurum intexere invenit Attalus rex, unde nomen Attalicis*.) These tapestries (*peripetasmata*) are elsewhere called *peristromata*. (Plaut. Stich., 378.)

appropriated, as their former owner testified at Rome. Verres had requested that the tapestries be sent to him at Agrigentum. Heius complied with the request and since that time had not seen his property.<sup>1</sup> In this case the governor did not even take the trouble to enter a paltry "purchase price." He did not even "pay" as much as 6,500 sesterces for these works of art easily worth 200,000 sesterces.<sup>2</sup> Another variety of articles of artistic value and beauty was the *phalerae*, a metal ornament often set with precious stones, designed to be worn on the breast, or often attached to the harness of horses. Phylarchus of Centuripae possessed some handsome examples of this sort of work, said to have been formerly the property of Hiero II, king of Syracuse.<sup>3</sup> This man, knowing the governor's weakness, took the precaution to remove his treasures to the house of a friend, but the indefatigable Verres soon traced them and appropriated them, without the formality of payment. Other valuable *phalerae* were collected from Aristus of Panormus and Cratippus of Tyndaris.<sup>4</sup>

We have seen repeatedly that Verres was happy in his choice of lieutenants to aid him in his operations. The Timarchides and Apronius of the *De Signis* are the brothers Tlepolemus and Hiero, from Cibra in Phrygia, the one a modeller in wax, the other a painter.<sup>5</sup> Having been suspected of theft from the temple of Apollo at Cibra, they had left their home and had become associated with Verres during his service with Dolabella in Asia Minor, when he first began the collection on an extensive scale of objects of art.<sup>6</sup> He had kept these men with him ever since in the capacity of advisers and assistants in further quests, and brought them to Sicily, well trained to their duty of ferreting<sup>7</sup> out treasures whose owners should become unwilling contributors to the governor's collection. These were the men on whose

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<sup>1</sup> IV, 27.

<sup>2</sup> IV, 28.

<sup>3</sup> IV, 29.

<sup>4</sup> Ibid.

<sup>5</sup> IV, 30.

<sup>6</sup> Ibid.

<sup>7</sup> IV, 31. "*Canes venaticos dices.*"

judgment Cicero represents Verres, in his abysmal ignorance of things artistic, as relying absolutely, and in support of this portrait the prosecutor relates the case of Pamphilus of Lilybaeum.<sup>1</sup> The latter had suffered the loss of his most prized possession, a *hydria* or pitcher from the master hand of Boethus of Chalcedon,<sup>2</sup> which he had inherited from his ancestors and was accustomed to use only on special occasions. But the governor's helpers learned that Pamphilus still possessed a pair of embossed drinking-cups (*scyphi*), which he was ordered to produce before the propraetor. No course but compliance being open to him, Pamphilus started for the praetor's house, leaving orders that the cups should be brought after him. Upon arriving there he was told that Verres was asleep, but the Cibyritic brothers demanded to see his cups, which were forthwith approved. This sealed their fate. Pamphilus began to lament his prospective loss, upon which he was asked by the crafty brothers what he was willing to pay for keeping his cups. He promptly offered 1,000 sesterces as a bribe, and his offer was as promptly accepted. The praetor summoned the men and "asked for the cups."<sup>3</sup> Tlepolemus and Hiero reported that they had understood that the cups were of some value, but that upon examination they had found them to be nothing extraordinary, and entirely unworthy of a place in his collection, upon the strength of which the governor agreed to let Pamphilus keep his property. This story Cicero adduces to prove that Verres was utterly without artistic taste or knowledge, that he "used his own hands, but their eyes,"<sup>4</sup> and was thus entirely at the mercy of his own satellites if, for reasons of their own, they cared to deceive him. But the prosecutor, in his anxiety

<sup>1</sup> IV, 32.

<sup>2</sup> An artist whose masterpieces are usually of small dimensions, who could beautify the ordinary and commonplace by the grace of his treatment. To him are ascribed the famous Boy Removing a Thorn, and the Boy with the Goose. Cf. Paus. V, 17, 4; Pliny N. H. XXXIII, 155; XXIV, 84. See Haachtmann, op. cit., pp. 15-16.

<sup>3</sup> *poscit scyphos*.

<sup>4</sup> IV, 33.

to ridicule Verres, goes too far. It is nowhere stated that the praetor ever *saw* the cups. But the statement that he *asked for them*, immediately followed by the hasty explanations of the brothers that the cups were worthless, would imply that he did *not* see them. The incident, then, only proves that the "Dogs" were not entirely trustworthy. It also proves that their master's confidence in their honesty, as well as in their artistic judgment, was very great. More than that it certainly does not prove.

Another incident which Cicero uses to prove merely the governor's avarice, may show equally well his extreme interest in beautiful objects, even in circumstances where it was unwise to allow it to be seen. The prosecutor relates that after the first *Actio* in Verres's trial at Rome, "when he was already as good as condemned and civilly dead,"<sup>1</sup> at the time of the Circensian Games in September, he was present at an early morning banquet at the house of his friend, L. Sisenna.<sup>2</sup> In view of his notoriety, every eye was upon him, and the servants especially were guarding their master's treasures—though it is hard to see how, under the circumstances the valuables were in any particular danger. Yet in spite of this, and regardless of the impression his action might make, Verres could not resist the temptation to examine carefully and leisurely every piece of the silver dinner-service.<sup>3</sup> Certainly this was not the act of a craftily covetous and ignorant despoiler, whose only purpose in such a course could be to gloat over the weight and fineness of the precious metal. Rather it was exactly what we should expect from an expert, a connoisseur, whose passionate interest in real works of art, which the service of a man like Sisenna was sure to contain, blinds him for the moment to considerations of consequences or of present expediency. Again the prosecutor has overreached himself.<sup>4</sup>

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<sup>1</sup> IV, 33.

<sup>2</sup> Aedile, B. C. 70.

<sup>3</sup> IV, 34.

<sup>4</sup> It is highly probable that the incident is a pure invention, as the so-called *Actio Secunda*, of course, never took place. But to add to the air of

The son-in-law of Pamphilus, Diocles Poplilius, also lived at Lilybaeum. He suffered the loss of all his plate, which was simply carried away from the sideboard on which it was displayed.<sup>1</sup> Verres provided for the usual defense that the transaction had been a purchase, by ordering Timarchides to set a "valuation" upon the booty, and Diocles was presumably paid the unspecified amount, which is nevertheless declared to have been very small.<sup>2</sup> M. Coelius and C. Cacurius of Lilybaeum also suffered losses which are not detailed.<sup>3</sup> Q. Lutatius Diodorus was deprived of a large and beautiful table of citron wood.<sup>4</sup> A certain rascally Aulus Clodius of Drepanum, had plundered his wards of some wonderfully wrought ancestral silver plate. This Verres forced him to share, an action which Cicero ironically approves.<sup>5</sup> A statue of Apollo was "bought" by the governor for the nominal sum of 1,000 sesterces, from Lyso, who had acted as his host at Lilybaeum.<sup>6</sup> Some fine drinking-vessels, decorated with *emblemata*<sup>7</sup> were abstracted from Heius, a minor, who was under the guardianship of Marcellus.<sup>8</sup>

The island of Malta was under the jurisdiction of the governor of Sicily, and it also suffered. One of its citizens, a certain Diodorus, had been living for some years at Lilybaeum.<sup>9</sup> The governor's sleuth-hounds discovered and reported to their master

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reality of this speech, Cicero here represents Verres as spending his time thus while awaiting the outcome of the mythical second trial. (Cf. Thomas, E., Verr., p. 41, n.) Whether the story is true or not, it fails equally to establish the point for which the prosecutor uses it.

<sup>1</sup> IV, 35.

<sup>2</sup> Ibid.

<sup>3</sup> IV, 37.

<sup>4</sup> Ibid. This was the fragrant and highly prized wood of an African tree. Pliny (N. H. XIII, 92) states that Cicero paid 500,000 sesterces for one of these tables.

<sup>5</sup> Ibid. *abs te nihil rectius factum esse dico.*

<sup>6</sup> Ibid.

<sup>7</sup> Usually embossed work made separately from the piece to be decorated and then set into it, whence the term.

<sup>8</sup> Ibid.

<sup>9</sup> IV, 38.

in the first year of his administration,<sup>1</sup> that the man was in possession of some very fine specimens of embossed work,<sup>2</sup> among them certain goblets of the type called Thericlean,<sup>3</sup> from the hand of the great artist, Mentor.<sup>4</sup> Diodorus was summoned before Verres, who demanded to see his goblets, but the former replied that he had left them in Malta at the home of a relative. Whereupon the praetor immediately despatched messengers to Malta with instructions to certain citizens there to search out the treasures for him.<sup>5</sup> He even asked Diodorus for letters to his relative. In the mean time, the latter, who had no mind to lose his property, privately sent a message to the man, bidding him to tell the messengers of Verres when they came, that he had sent the goblets to Lilybaeum a few days before. Then Diodorus quietly disappeared, much to the governor's anger and chagrin.<sup>6</sup> He ordered a thorough search to be made for the man, who by this time had made good his escape, carrying his treasures with him, and had gone to Rome.<sup>7</sup> In desperation Verres prompted one of his "Dogs" to institute a prosecution against Diodorus in his absence, on a capital charge. But meanwhile the refugee, who had some influence at the capital, was succeeding in calling considerable public attention to the matter.<sup>8</sup> This was the occasion when the aged father of Verres and some of his friends wrote warning letters to the governor, informing

<sup>1</sup> IV, 40.

<sup>2</sup> *loureumata*.

<sup>3</sup> So called, either from a Corinthian potter, Thericles, whose earthenware goblets gave his name to later imitations of them in wood, silver, or glass, or, "much less probably," from the fact that they were decorated with reliefs of animals (*θηρία*). (See Long, p. 428; Halm<sup>12</sup>, p. 78; Richter & Eberhard, Verr. IV, p. 56; Nohl, Verr., p. 124; Fickelscherer, Verr. IV, p. 77.)

<sup>4</sup> The most famous worker in silver embossing, whose works were so rare and costly (Pliny, N. H. XXXIII, 154) that these may have been only copies. (See Hachtmann, p. 15.)

<sup>5</sup> IV, 39.

<sup>6</sup> Ibid.

<sup>7</sup> IV, 40.

<sup>8</sup> IV, 41.

him of the public scandal to which the affair had grown at Rome, and advising him to cease any further action against Diodorus, on the ground that it was becoming dangerous.<sup>1</sup> The prosecution was consequently allowed to drop, but Diodorus was too prudent to return to Sicily even on those terms. He remained away from the province during the remainder of Verres's term of office.

Roman *equites* in the province received as little consideration as provincials themselves, if they too chanced to possess artistic valuables. From Cn. Calidius, an *eques* engaged in business in Sicily, were abstracted some fine silver drinking-vessels (*eculeii*), either in the shape of horses' heads, or adorned with them, whose value was enhanced by the fact that they had formerly belonged to a Q. Maximus,<sup>2</sup> probably one of the Fabian family, and so a man of prominence.<sup>3</sup> Here again the seizure was ostensibly a "purchase," a claim which was refuted by the fact that Calidius later made complaint in Rome and demanded the restoration of his property.<sup>4</sup> But he never succeeded in recovering it, although in several instances Verres did restore to Roman *equites* similar articles whose loss they had suffered through him.<sup>5</sup> Another *eques*, L. Papinius, owned a silver censer (*turibulum*) decorated with inset embossed work (*emblemata*).<sup>6</sup> Verres borrowed this, and when it was returned it had become a perfectly plain piece, as the decorations had all been removed. Nearly every Sicilian house, Cicero states, was in possession of at least three silver pieces, used for religious ceremonials; a *patella* or plate, embossed with figures of deities, a *patera* or libation saucer, used chiefly by the women of the household, and a *turibulum* or censer.<sup>7</sup> Being used for such purposes, these vessels were mostly

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<sup>1</sup> See p. 2.

<sup>2</sup> IV, 42.

<sup>3</sup> Cf. Fickelscherer, Verr. IV, p. 79; Halm, <sup>11</sup>, p. 80.

<sup>4</sup> IV, 43.

<sup>5</sup> IV, 44.

<sup>6</sup> IV, 46.

<sup>7</sup> Ibid.



ancestral antiques, finely made, and of great value. Such things, of course, were all fair game for the "Dogs," especially in a town where larger works were not to be found,<sup>1</sup> and their seizure was very general. From Aeschylus of Tyndaris such a *patera* was taken, from Thraso of the same place a *patella*, and from Nymphodorus of Agrigentum a *turibulum*.<sup>2</sup> One Cn. Pompeius Philo, a Roman citizen of Tyndaris, gave a banquet for the governor in his country villa, in the course of which there was set before Verres a beautifully wrought silver plate. This the governor seized, with no regard for the fact that it belonged to his host, and after he had had the figures removed, returned it stripped. The same thing happened in the case of two cups, decorated with *emblemata* and belonging to Eupolemus of Calacte, who, when entertaining the praetor, took the precaution to use only plain ware, with the exception of the pair of cups.<sup>3</sup> Cicero, in rhetorical indignation, represents Verres as actually having the decorations stripped off before the eyes of the guests. These last two cases, the prosecutor says, prove that the governor was inspired, not by avarice, but only by love of the artistic, since he returned the silver vessels after their decorations had been removed. Irony is Cicero's evident intention, but he states only the truth. Again he has allowed his indignation at the illegal and outrageous seizures, which no one would attempt to defend, to becloud the subsidiary issue, namely the question as to whether Verres was a true lover of art for art's sake, or only a plunderer and an ignoramus. The seizures were nothing less than robbery. The return of the intrinsically valuable silver vessels shows indisputably that the motive prompting the seizure was not primarily a mercenary one. It is simply a question of establishing one of two motives for an illegal act, neither of which motives in the slightest degree reduces the act's illegality. Cicero has chosen, consciously or unconsciously, to adduce the motive which is less justified by the facts.

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<sup>1</sup> IV, 47.

<sup>2</sup> IV, 48.

<sup>3</sup> IV, 49.

Coming to Catina, the governor, having summoned Dionysarchus, the chief magistrate, ordered him to supervise the collection of "all the silver plate to be found there" and to have it delivered to himself,<sup>1</sup> an order too sweeping to be entirely probable, though there is no evidence upon which to base any specific modification of it. Phylarchus of Centuripae testified to the issuance of a similar order to himself with regard to the valuables of his own city.<sup>2</sup> Likewise Apollodorus of Agyrium was charged with the duty of shipping to Syracuse all the Corinthian bronzes to be found in his city.<sup>3</sup> At Haluntium, where the ascent into the town was steep and rugged, the governor did not even make the effort to enter but, lying in his luxurious litter<sup>4</sup> by the seashore, he summoned Archagathus, a leading citizen, and charged him to collect immediately all the embossed silver and Corinthian bronzes, and to bring them down to the shore.<sup>5</sup> The Haluntine, much against his will, made known the praetor's orders to his fellow citizens. After a wholesale and forcible confiscation, the loot was taken to Verres and submitted to the inspection of the Cibyric brothers. From those pieces which they approved, the ornaments<sup>6</sup> were removed, and the silver vessels were returned to their owners.<sup>7</sup> To give the transaction the appearance of a purchase, Verres ordered Archagathus to reimburse the owners in some trifling sums, which the majority of the latter refused to accept.<sup>8</sup> Some money was paid out, however, evidently from the private purse of Archagathus, which money the governor never took the trouble to pay back to him.

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<sup>1</sup> IV, 50.

<sup>2</sup> Ibid. Centuripae had 10,000 citizens (II, 163) and was the most prosperous and commercially active of all the Sicilian towns. (Cf. III, 108.)

<sup>3</sup> Ibid.

<sup>4</sup> *lectica*. Cf. V, 27.

<sup>5</sup> IV, 51.

<sup>6</sup> *crustae aut emblemata*. The former were probably thin wrought metal plates superimposed upon the surface of the vessel: the latter were really set into and made a part of the piece. Consequently they would be more difficult to remove. See Richter & Eberhard, Verr. IV, p. 69.

<sup>7</sup> IV, 52.

<sup>8</sup> IV, 53.

Some question was raised of a suit to recover it at Rome, but the action was never brought. The fact that the sum was large enough to form the basis of a suit would indicate that it was possibly no such bagatelle as Cicero represents it to be.

After collecting a vast number of *emblemata*, torn from the plate of provincials and Romans in all parts of the island, Verres established in the old palace of Hiero at Syracuse, which had become the governor's residence, a sort of private *atelier*.<sup>1</sup> Thither he summoned a large number of trained workers in precious metals,—not mere artisans, but real artists, such as only a center of Greek life and feeling could boast—and gave them the task of resetting his newly acquired treasures in plain golden cups and vessels furnished them for the purpose. Cicero states that the large force of men was uninterruptedly employed for eight months in completing only the work in gold, and so thoroughly satisfactory was the result that the creations seemed not new but original antiques.<sup>2</sup> The most interesting figure in the description of the workshop is that of the praetor himself, clad in a coarse dark tunic and a Greek *pallium*<sup>3</sup>—a workman's garb, of the same sort in which the artists he employed were dressed—spending the greater part of the day with them, utterly engrossed in the re-creation of his treasures, and entirely oblivious to the outside world. Certainly it is a picture strangely incongruous with the dignity of the Roman governor of a great province, but absolutely consistent with the rapt interest and the fascinated absorption of the true connoisseur. No mere plunderer would have gone to the trouble and expense of having the reliefs and embossed work re-set. No mere dilettante, mildly interested in the mechanical processes of the goldsmith's art, would sit day after day for eight months, amid the inevitable dirt and disorder, clad in workman's dress. This is the picture of Verres which Cicero paints, seemingly unconscious of how damning it is to his efforts to ridicule the governor's artistic

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<sup>1</sup> IV, 54.

<sup>2</sup> *ea ad illam rem nata esse diceret.*

<sup>3</sup> Cf. Horace Epist. I, 7, 65, *tunicato popello.*

retensions." This passage is, perhaps, the most convincing evidence we have of Verres's real artistic taste. The facts here forth could be true only of one possessing a discriminating knowledge, an intense interest, and at least a spark of the divine. They serve to demonstrate one of the few admirable traits in the character of a most remarkable man.

Gold rings set with carved gems for sealing documents constituted a real part of Greek artistic production, and numbers of these were "torn from the fingers" of their owners.<sup>1</sup> By chance the governor noticed the seal<sup>2</sup> on a letter which came to C. Caelius, his interpreter. Being pleased with it, he inquired about the source of the letter.<sup>3</sup> Upon being informed that it had come from Agrigentum, he wrote to his agents there to procure for him at once the ring which bore the seal whose impression had caught his eye. Accordingly it was abstracted from its owner, L. Titius, a Roman citizen.

A passion for richly dyed and embroidered tapestry covers for banquet couches constituted another obsession of the praetor. Verres states, with his usual hyperbole, that if the governor had been obliged to provide thirty couches<sup>4</sup> (instead of the usual three), richly covered, for each of the many banquet rooms which he had at Rome and in his various villas, he would still seem to have collected too many. "There was no wealthy house in Sicily where he did not set up a weaver's shop." At Segesta a wealthy woman, Lamia by name, produced from the looms in her house such tapestries, dyed with purple, and for three years

[IV, 57.

*Cretula*, a species of white clay used by the Greeks for sealing, whereas Romans used wax. (Cf. Herodotus II, 38; Pliny N. H. XXXV, 46.)

[IV, 58.

*Tricenos* is the figure given in all the Mss. and is followed by most editors, with the evident understanding that it is a rhetorical exaggeration. II, 183 where Verres is accused of exporting fifty banquet couches from a single port of Syracuse within a short time and failing to pay any duty on them. (See Halm<sup>12</sup>, p. 91; Richter & Eberhard, p. 75). Müller, reluctantly regarding the hyperbole as too great, emends to *trigeminos*. Mommsen writes *trinos*. I see no adequate reason for disregarding the unanimous testimony of the Mss.

Verres practically confiscated her entire output.<sup>1</sup> Attalus of Netum, Lyso of Lilybaeum, Critolaus of Aetna, Aeschrio, Cleomenes and Theomnastus of Syracuse, and Archonidas of Helorus were among these "friends" of the governor who contributed purple dyed tapestries. Verres claimed that he at least furnished the purple, and his friends only did the work. Also the whole output of bronze couches and candelabra at Syracuse during the three years came into his possession.<sup>2</sup> Cicero seems not to consider a *bona fide* purchase in this case as being so completely improbable as in the former instances where it was adduced as a defense.

Even royal princes received scant consideration from Verres when they stood between him and some coveted object which had attracted his practiced eye, or the news of which had penetrated to his alert ear. Antiochus Eusebes, king of Syria, was driven from his throne in B.C. 83 by Tigranes, king of Armenia, and son-in-law of Mithridates. When, in consequence of the successes of Lucullus against Mithridates (B.C. 74), Syria was freed from the invader, the two young sons of Antiochus set up a claim to the throne of their father, now dead, and also through Selene, their mother, who was the daughter of Ptolemy Physcon, to the Egyptian throne.<sup>3</sup> In the year 75 they came to Rome for the purpose of presenting their claims to the senate. The elder of the two brothers was also named Antiochus, surnamed Asiaticus, from his exile in Asia Minor.<sup>4</sup> Owing to the pressure of affairs at Rome,<sup>5</sup> they were unable to secure an adequate consideration of their claims, and after a stay of nearly two years,<sup>6</sup>

<sup>1</sup> IV, 59.

<sup>2</sup> IV, 60. These were either wholly of metal, or wood with metal decorations. (Cf. Pliny N. H. XXXIV, 9; *Tricliniorum pedibus fulcrisque ibi prima aeris nobilitas*.)

<sup>3</sup> IV, 61.

<sup>4</sup> He became king of Syria the next year (69) by the aid of Lucullus, but his reign came to an end in 65 when Pompey added Syria to the Roman dominions. (Cf. Appian, *Syriaca*, 49.) See Drumann, *G. R.*, V, 295, n. 43; Pauly-Wissowa I, 2485.

<sup>5</sup> *temporibus rei publicae*. Rome was at war with Sertorius, Mithridates, the pirates, the gladiators, the Dalmatians, and the Thracians.

<sup>6</sup> IV, 67.

departed for Syria. The young Antiochus wished to travel by way of Sicily, and arrived some time during the first year of Verres's praetorship, at Syracuse, where he was entertained at the home of the wealthy Q. Minucius.<sup>1</sup> The governor sent the usual presents of oil, wine, and wheat, and invited the prince to a banquet in his honor.<sup>2</sup> The function was a brilliant one, lavishly appointed in every particular, and splendid with the numerous artistic treasures which Verres had already collected. The young prince was pleased, and shortly returned the compliment with a banquet for the praetor, also marked by luxurious display and with added oriental magnificence. Much silver plate and many golden cups, studded with wonderful gems, delighted the praetor's expert eye, and especially a wine-ladle, carved out of a single piece of semi-precious stone,<sup>3</sup> with a golden handle. Verres examined each piece and expressed his admiration, while the Syrian was duly flattered at the evident impression he had made upon the powerful Roman.<sup>4</sup> Shortly after the banquet, Verres sent to ask the loan of the finest of the vessels he had seen, including the wine-ladle, on the pretext that he wished to show them to his own artists, and to examine them more leisurely himself. The unsuspecting prince obligingly sent what was requested.

But the *chef d'oeuvre* of the prince's collection was yet to be revealed. For he had brought to Rome a marvelous candelabrum of gold, encrusted with gems,<sup>5</sup> destined for the temple of Jupiter Capitolinus. But restoration of the building, burned in B. C. 83, was not yet complete,<sup>6</sup> and not wishing to weaken the impression which the gift was to make, by displaying it prematurely, Antiochus had decided to take it back to Syria, with the inten-

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<sup>1</sup> IV, 70.

<sup>2</sup> IV, 62.

<sup>3</sup> Probably onyx or agate. (See Richter & Eberhard, p. 79; Fickelscherer, p. 86.)

<sup>4</sup> IV, 63.

<sup>5</sup> IV, 64, 71.

<sup>6</sup> It was completed under the direction of Q. Catulus, (see IV, 69) and dedicated in the year 69.

tion of sending it to the Capitol when the dedication should take place. The matter had been kept as secret as possible, but Verres learned of the presence of this treasure and forthwith begged the prince that he might have the opportunity to inspect it at his own house, promising to keep it safe from prying eyes. So it was carefully wrapped up and taken secretly to the governor's palace.<sup>1</sup> When the magnificent object was set up, with its flashing jewels, its variety of design and skill of workmanship, all vying with the richness of the materials, the governor could hardly feast his eyes upon it sufficiently. When the servants of Antiochus would have packed it up preparatory to returning it to the prince, Verres ordered them to leave it for the time being, that he might fully appreciate its wonders. So they returned to Antiochus without it. Several days passed. The prince, at first entirely unsuspecting, began to feel a twinge of uneasiness. He sent to the praetor a polite request for the return of his property.<sup>2</sup> Verres bade the slaves come another time. Again the request was made, with no better success attending it. Thoroughly alarmed for the safety of his treasures, Antiochus called in person and asked to have them sent to him. Then the governor, without scruples for the religious character of the intended gift to Jupiter, or for the rights of his official guest, began to entreat the Syrian to present him with the candelabrum. When this was diplomatically refused, threats were forthcoming, attended with no greater success. Then the prince was abruptly ordered to leave the province before night. The governor had heard that "pirates from his kingdom were coming against Sicily." Leaving the praetorium, Antiochus made public proclamation of his loss in the forum of Syracuse, declaring that he was willing to suffer the loss of the other objects, but that the candelabrum must be returned. He then made formal and ritualistic dedication of the gift to Jupiter.<sup>3</sup>

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<sup>1</sup> IV, 65.

<sup>2</sup> IV, 66.

<sup>3</sup> IV, 67, 70.

Here the story is abruptly cut off, but we know that the works of art had not been returned at the time of the trial. Cicero indulges in a long invective,<sup>1</sup> in which he dwells at length on the heinousness of the misappropriation of objects sacred to the gods, the force of which is considerably weakened by the fact that the consecration of the candelabrum took place only after its seizure. He appeals to Q. Catulus, one of the jurors, to remember his duty, as superintendent of repairs on the Capitol, to avenge this slight offered to the god. He further exaggerates the importance of the incident by referring constantly to Antiochus as *rex*, implying that Verres had robbed a reigning king,<sup>2</sup> and an ally of Rome.<sup>3</sup> The facts of the unwarranted seizure of the valuables were sufficiently condemnatory in themselves, without the attempt to magnify the religious and political bearings of the case.

*B—Seizures of Public Property.*

We now pass to the second part of the prosecutor's presentation of the subject, dealing with the confiscation of works which were the property of states rather than of individuals.<sup>4</sup> At the old town of Segesta, connected by tradition with Aeneas,<sup>5</sup> was an antique bronze statue of Diana which had had a notable history. It was one of those monuments which had been taken away by the victorious Carthaginians, and later restored to its rightful owners by the conquering Scipio.<sup>6</sup> At Segesta it was received with joy by the citizens who, to show their gratitude, replaced it in its former location, but upon a high pedestal, on which was carved an inscription to the effect that P. Africanus had restored the statue upon the taking of Carthage.<sup>7</sup> The

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<sup>1</sup> IV, 67-71.

<sup>2</sup> Though sporadic uses of the word as applying to a royal prince are not unknown (cf. Cic. de Senec. 59; Caes. B.G. III, 107, 2.)

<sup>3</sup> Cf. Drumann, Gesch. Roms V, 294, u. 43.

<sup>4</sup> See p. 97.

<sup>5</sup> IV, 72. (Cf. Vergil, Aen. V, 711-761.)

<sup>6</sup> IV, 73. Cf. p. 29.

<sup>7</sup> IV, 74.



image was an object of religious veneration and a feature of interest to strangers. "When I was quaestor," says Cicero, "it was the first thing they showed me." He describes it as of colossal size, representing a virgin clad in long drapery, her quiver suspended from the shoulder, and her left hand holding the bow. In the right hand was a burning torch. Verres coveted the work as soon as he saw it, and he did not hesitate to intimate to the Segestans that it would be very acceptable to him as a gift.<sup>1</sup> They replied that upon religious and legal grounds, such a course would be impossible. Entreaties were followed by threats. To all these they replied that they had no right to dispose of a monument which Scipio, a general of the Roman people, had chosen to stand there as a memorial of his victory—a position which would have been impregnable to anyone but a Verres. Undiscouraged, he daily increased the emphasis upon his demands, so that finally they were brought before the Segestan senate. There the proposal was indignantly rejected.<sup>2</sup> Whereupon the governor entered upon a systematic persecution of the town, harrying the inhabitants by excessive levies of men for naval service, and illegal demands for *frumentum imperatum*. He tried intimidation by summoning their magistrates and other leading citizens, only to repeat his threats of their individual and collective ruin. The treatment took time, but was eventually successful, and the Segestans in despair awarded the contract for taking down the statue. No Segestan could be found who was willing to touch it, so it was necessary to import workmen from Lilybaeum who, having no religious scruples in the matter, soon removed the image from its pedestal.<sup>3</sup> Attended by all the matrons and virgins of the city, anointed with perfumes, crowned with garlands, Diana was escorted to the borders of the Segestan territory. The empty pedestal, with the illustrious name upon it, evidently served the purpose of an

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<sup>1</sup> IV, 75

<sup>2</sup> IV, 76.

<sup>3</sup> IV, 77.

accusing finger, for not long afterwards the Segestaes were compelled to have it removed also, as their public records showed.<sup>1</sup>

With great skill and effectiveness Cicero passes from the disregard shown by Verres for the monument of the great Scipio Africanus, to a personal appeal to the descendant of the illustrious dead, P. Scipio Nasica,<sup>2</sup> one of the *judices* in the great case, and known as a partisan of Verres. "Why do you take the part of that man who has despoiled the credit and honor of your family? Why do you wish him to be defended? Why am I undertaking what is properly your business? Why am I supporting a burden which ought to fall on you? Marcus Tullius is reclaiming the monuments of Publius Africanus; Publius Scipio is defending the man who took them away!"<sup>3</sup> The prosecutor suggests further that if the aristocratic party is unwilling to defend the honor of its rank, it should not be surprised if he, a *novus homo*, performs that duty.<sup>4</sup> The whole passage<sup>5</sup> is a most forceful and eloquent appeal, combining irresistible logic with the conviction which comes only from the consciousness of a righteous cause, and the confidence of certain victory.<sup>6</sup>

The conqueror of Carthage was also responsible for the return of a cherished Mercury to the town of Tyndaris,<sup>7</sup> there regarded with deep religious reverence. Upon his first sight of the statue, Verres abruptly ordered it to be taken down and shipped to Messana. The opposition of the citizens was so strong that he was unable to gain his end immediately, but upon his departure he renewed the demand to Sopater, chief magistrate<sup>8</sup> of Tyndaris,

<sup>1</sup> IV, 78, 79.

<sup>2</sup> Later adopted by Q. Metellus Pius, and therefore called Q. Caecilius Metellus Pius Scipio. He was the father of Cornelia, second wife of Pompey.

<sup>3</sup> IV, 79.

<sup>4</sup> IV, 81.

<sup>5</sup> IV, 79-83.

<sup>6</sup> Holm (G. S. III, p. 420) estimates this passage as worthy a place beside the best efforts of Demosthenes.

<sup>7</sup> IV, 84. The figure of Mercury appears upon Tyndaritan coins. See Brit. Mus. Cat., 236, No. 15 ff.

<sup>8</sup> *Proagorus*.

and left him with threats.<sup>1</sup> Sopater referred the matter to the local senate, where it provoked violent opposition. Some time afterward Verres returned, inquired about the statue, and was informed that the senate had ordained capital punishment for anyone who so much as touched the figure. Threats of death by scourging prompted the unfortunate Sopater to report the governor's demands to the senate a second time, which body adjourned in disorder without a vote. Verres in a rage ordered Sopater to be stripped, but not for scourging.<sup>2</sup> In the middle of the forum were some bronze equestrian statues of the Marcelli. It was winter time, the temperature was low, a heavy, chilling rain was falling. Verres grimly ordered his servants to place the Sicilian magistrate astride the bronze horse of C. Marcellus and to tie him securely. There the man sat, his flesh almost congealed by the cold metal<sup>3</sup> and the rain, until the populace, moved by pity, compelled the senate to promise their Mercury to the praetor<sup>4</sup>. The senators appeared before him and made their formal pledge, whereupon the half frozen Sopater was taken down from his undignified and painful position. The official records of Tyndaris showed that a certain Demetrius superintended the removal of the coveted statue, which was forthwith

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<sup>1</sup> IV, 85.

<sup>2</sup> IV, 86.

<sup>3</sup> The Mss. reading *in aere* has been interpreted by some as *in aëre*, "in the open air." I cannot follow Müller in adopting this interpretation. The fact that the statue was of metal would add to its heat-absorbing qualities and increase the torture. (See Long, p. 455.)

The argument for *in aëre*, as stated in Halm<sup>12</sup>, (p. 110) is that the members of a rhetorical climax must be "gleichartig," and that *in aere, in imbri, in frigore* is therefore impossible. But the climax is hardly strong enough to warrant the supposition that for that reason alone Cicero would deliberately sacrifice the opportunity of invoking shivers in his hearers or readers by the mere mention of cold metal against bare flesh. Such an opportunity would not be likely to escape him. The effect is vastly weakened by forcing us to read *in aëre*, upon pain of violating a rhetorical canon. The Mss., of course, give no help in the matter. It is purely a question of interpretation. Halm admits the possibility of following Luterbacher in reading the phrase in question as an *anti-climax*.

<sup>4</sup> IV, 87.

transported at public expense to Messana.<sup>1</sup> Later at Rome, Cicero was prepared to produce two witnesses, Zosippus and Ismenias of Tyndaris, to testify that Verres had proposed to restore the statue if the evidence already brought against him were blotted out and security were given that no more charges would be forthcoming from the people of Tyndaris.<sup>2</sup> The prosecutor makes much of the fact that the memory of Marcellus had been insulted by the misuse of his statue as an instrument of punishment, and upon the strength of the insult bases a personal appeal,<sup>3</sup> rather forced, to C. Marcellus Aeserninus, one of the *judices* and, like Scipio, probably a partisan of Verres.

Another monument to the generosity of the conqueror of Carthage was found at Agrigentum, where he had restored to the people a fine bronze Apollo, on whose thigh, in small silver letters, appeared the name of the great Myron.<sup>4</sup> The figure stood, an object of veneration, within the sacred precinct of Aesculapius,<sup>5</sup> and from there it was ruthlessly removed. The theft prompted the city magistrates to charge the aediles and quaestors to set a guard by night over the other sacred edifices. Among these was a temple of Hercules, not far from the forum, containing a noble bronze statue of the god, the remembrance of which forces from Cicero the statement that he had never seen anything finer. But he immediately adds that his power of judgment in such matters is not in proportion to the number of works he has seen.<sup>6</sup> The figure had been kissed by so many generations of suppliants that the mouth and chin were a little worn. Choosing a dark night, Verres sent Timarchides with a great band of armed slaves, to secure the treasure for him. The guards were speedily dispersed, but they raised an outcry

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<sup>1</sup> IV, 92.

<sup>2</sup> *Ibid.*

<sup>3</sup> IV, 89-91.

<sup>4</sup> IV, 93.

<sup>5</sup> Cf. *Brit. Mus. Cat.* 20, Nos. 142, 143. These coins show an Apollo head, and may refer to this statue. Aesculapius was the son of Apollo.

<sup>6</sup> IV, 94.

throughout the city and aroused the inhabitants in force. In a short time a great concourse had gathered about the temple, where for more than an hour the emissaries of the governor had been vainly endeavoring by various means to move the huge figure from its base.<sup>1</sup> Effecting an impromptu organization, the Agrigentines succeeded, by well directed volleys of stones, in routing the vandals, whose only booty consisted of two small figures hastily seized.

Similar methods brought as little success at Assorus, where a marble statue of Chrysas, the river-deity of the locality, was the object of an armed attack, directed by Tlepolemus and Hiero.<sup>2</sup> Again the watchers spread the alarm and the marauders were dispersed. Nothing was missed except one small figure of bronze.

A temple of Cybele at Engyum was rifled not only of its statue, but of a number of fine corselets and helmets of hammered bronze in the famous and valuable Corinthian workmanship, and some large ewers of a similar description.<sup>3</sup> All these latter articles Scipio had deposited in the temple, and had inscribed them with his own name.

At Catina was a well known shrine of Ceres, where the ritual, as usual with the cult of this deity, was performed entirely by women, and where men were forbidden access to the temple.<sup>4</sup> The antique statue of the goddess was carried off in the night by the governor's slaves from the inmost part of the sanctuary. The next day, the matter being reported by the priestesses to the city magistrates, Verres became alarmed and departed in haste, leaving instructions with his host to find a scape-goat who might be charged with the theft.<sup>5</sup> Pursuant to this order, a certain

<sup>1</sup> IV, 95. Cicero takes occasion to refer facetiously to the matter as another labor of Hercules, punning upon the name *Verres*.—with an allusion to the Erymanthian boar. (Cf. p. 3.)

<sup>2</sup> IV, 96. The figure of Chrysas appears upon the coins of Assorus. (See Head, *Historia Numorum*,<sup>2</sup> p. 127.)

<sup>3</sup> IV, 97. Plutarch (Marcellus, xx) mentions the armor in this temple.

<sup>4</sup> IV, 99.

<sup>5</sup> IV, 100.

slave was arraigned before the senate of Catina, but the testimony of the priestesses showed so indubitably the identity of the actual culprit that the defendant was acquitted by unanimous vote.

On a promontory of the island of Malta, about ninety miles from Syracuse, was an ancient temple of Juno which had stood unviolated by Carthaginians or pirates.<sup>1</sup> Verres never visited the island, but having heard of the treasures of the shrine, was undeterred by its ancient sanctity and had it despoiled. It yielded large quantities of ivory, carved ornaments, and some antique ivory Victories of fine workmanship.

The cult of Ceres and Libera (Proserpina) had its origin in Sicily,<sup>2</sup> the mythical birthplace of the goddesses. It was there that the deity of fertility gave agriculture its first impetus, and from a grove near lovely Henna the gloomy Pluto abducted his bride.<sup>3</sup> The worship of Ceres Hennensis was widespread; in fact she had been consulted by Rome in B.C. 133 when, in accordance with the recommendation of the Sibylline books, a delegation from the college of decemvirs was sent to Henna.<sup>4</sup> So powerful was the cult that Cicero says the city appeared to be "not a city, but a shrine of Ceres."<sup>5</sup> The oldest statue of the goddess was of bronze, of moderate size but fine workmanship, representing her as holding torches.<sup>6</sup> This the praetor appropriated. But he also coveted the two colossal figures of Ceres and Triptolemus which stood in the open air before the temple.<sup>7</sup> Their size, however, proved their safeguard, as the task of removing them appeared too difficult. A beautiful Victory, of considerable size in itself, stood in the right hand of Ceres, and this was wrenched off and taken away. "So great was the

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<sup>1</sup> IV, 103.

<sup>2</sup> IV, 106.

<sup>3</sup> IV, 107. Cf. Ovid, *Fasti* IV, 401 ff., *Met.* V, 385 ff.

<sup>4</sup> IV, 108.

<sup>5</sup> IV, 111.

<sup>6</sup> IV, 109.

<sup>7</sup> IV, 110.

indignation of the people," says the prosecutor, "that you might suppose that Verres, like another Orcus, had come to Henna and had carried off, not Proserpina, but Ceres herself."<sup>1</sup> Three citizens, Theodorus, Numenius, and Nicasio, were commissioned to approach the governor and to demand from him the restoration of the two statues, in return for which they were authorized to pledge immunity from prosecution,<sup>2</sup> or to threaten prosecution if the demand were refused. Evidently they were unsuccessful, as Cicero produced them as witnesses at Rome.

The prosecutor next turns his attention to seizures in the city of Syracuse. The city is described in detail,<sup>3</sup> and the facts are almost buried beneath a mass of oratorical verbiage, accompanied by frequent references to Marcellus, conqueror of Syracuse, but no plunderer, and contrasts between his beneficent treatment of the city and the rapacity of Verres.<sup>4</sup>

A temple of Minerva at Syracuse contained some noble wall paintings depicting a cavalry battle of Agathocles,<sup>5</sup> constituting one of the notable artistic features of a magnificent city.<sup>6</sup> The wooden panels containing the paintings were all removed and the walls left bare and unsightly. Besides these, twenty-seven other paintings were seized, among them being the portraits of past kings and tyrants of Sicily.<sup>7</sup> The folding doors of this temple, most magnificently decorated in gold and ivory carvings, had been the subject of enthusiastic admiration and eloquent description on the part of many Greek writers.<sup>8</sup> These carvings were all torn off, a fine Gorgon head was confiscated, and all the golden *bullae*, numerous and heavy, disappeared. A number of huge spears made of bamboo, mere curiosities rather than objects

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<sup>1</sup> IV, 111.

<sup>2</sup> IV, 113.

<sup>3</sup> IV, 115-119.

<sup>4</sup> IV, 120 et passim.

<sup>5</sup> King of Syracuse, B. C. 317-289.

<sup>6</sup> IV, 122.

<sup>7</sup> IV, 123.

<sup>8</sup> IV, 124. Cicero does not specify their names.

of any artistic value, were also taken.<sup>1</sup> A Sappho by Silanion<sup>2</sup> was removed from the prytaneum or town-hall,<sup>3</sup> but the empty pedestal with its Greek epigram proclaimed the robbery.<sup>4</sup> A figure of Apollo Paeon was taken from the sanctuary of Aesculapius,<sup>5</sup> and one of Aristaeus from the temple of Liber,<sup>6</sup> his father. From the temple of Jupiter, one of the three finest known statues of the god as Imperator, was acquired by the governor,<sup>7</sup> and from the shrine of Libera a fine head, probably of a wild boar,<sup>8</sup> the animal most often sacrificed to Ceres and her

<sup>1</sup> IV, 125.

<sup>2</sup> Cf. Hachtmann, op. cit., pp. 14-15. Silanion flourished in the middle of the fourth century B. C. (Pliny N. H. XXIV, 8.)

<sup>3</sup> IV, 126.

<sup>4</sup> IV, 127.

<sup>5</sup> Cf. the similar seizure at Agrigentum (p. 119.)

<sup>6</sup> IV, 128.

<sup>7</sup> IV, 129, 130. On Jupiter Imperator see Overbeck, Griech. Kunstmythologie II, pp. 219-222, 249 ff.

<sup>8</sup> The practically unanimous Mss. reading is, *ex aede Liberae parinum caput illud pulcherrimum*. The impossible *parinum* has been the object of at least ten different conjectures, as follows: *aprinum*, Schlenger (Neue Jahrb. 127 (1883) p. 434); *porinum*, Fröhner (Rhein. Mus. 47 (1892) p. 296); *porcinum*, Georges; *pari num(inis contemplione)*, Kothe (Neue Jahrb. 135 (1887) p. 257); *puerinum*, Richter; *parvum*, Graevius; *Paninum*, Halm; *Parium*, others; *Parcinum*, Zielinski; *Pandinae*, Hirschfelder. A number of the editors regard emendation as impossible, (Fickelscherer, Richter & Eberhard, Müller, Thomas, Jordan) and print the Mss. reading marked with a dagger.

Of the above conjectures, some (like Kothe's) are impossible, others (like Halm's *Paninum*, a word not found elsewhere) are improbable. The two most likely to find acceptance are those of Georges (*porcinum*) and Schlenger (*aprinum*). It is well known that the boar was particularly sacred to the chthonic deities, and so to Ceres and Proserpina. Schlenger's conjecture has the advantage of taking into account this fact, as well as being paleographically easier than any of the others, involving, as it does, only the transposition of the first two letters of the Mss. reading. I have therefore followed his reading, *aprinum*. The word is not found elsewhere in Cicero, but is used by Varro and Pliny, while Lucilius has the form *aprugnus*. (See Thesaurus Lat. Ling. II, 319, 320.) It appears in the last edition of Halm, (Berlin, 1910).

Schlenger thinks the head was not a *signum* but an *emblema*, or decoration for a metal vessel.



daughter.<sup>1</sup> So many marble Delphic tables, fine bronze mixing bowls, Corinthian vases and similar objects of artistic worth were removed from the Syracusan temples that the professional guides had to reverse their traditional procedure, and instead of showing visitors what there was in every place, must needs be content with describing what had been removed from every place.<sup>2</sup>

Such seizures as the foregoing, says Cicero, with a touch of the affectation already noted, would be particularly hard to bear for those who so excessively delight in objects of art as do Greeks.<sup>3</sup> "Therefore we can understand that these things appear most bitter to those men, which perhaps may seem trifling and contemptible to us." The pretense that many of the statues had been purchased was particularly humiliating to the Sicilians, and even insulting, in view of the fact that they could have been induced by no price, however high, to part with the ancestral relics they prized so greatly.<sup>4</sup> Most of these things had been voluntarily left by Roman conquerors in the possession of provincials, in order, as the prosecutor loftily explains, "that they who take delight in those things which to us seem insignificant, might have them as pleasures and consolation in slavery."<sup>5</sup>

The remainder of the oration is taken up with an account of Cicero's visit to Syracuse in quest of evidence.<sup>6</sup> Every consideration was shown him there, and his task was made easy by the willingness of the plundered citizens to furnish detailed and explicit information in regard to the losses they had suffered.<sup>7</sup> An official *laudatio* or panegyric, which had been voted to Verres

<sup>1</sup> See Pauly-Wissowa II, 1971 ; Wissowa, *Religion und Kultus der Römer*, p. 243.

<sup>2</sup> IV, 132.

<sup>3</sup> Ibid.

<sup>4</sup> IV, 134.

<sup>5</sup> Ibid.

<sup>6</sup> IV, 136-138.

<sup>7</sup> IV, 139-140.

by the senate, proved to be the product of coercion and fear,<sup>1</sup> and upon Cicero's recommendation was almost unanimously rescinded.<sup>2</sup> Verres's former quaestor, P. Caesetius, appealed to Metellus, the new governor, who summarily ordered the senate adjourned,<sup>3</sup> and denied Cicero an audience.<sup>4</sup> The next day it was only after the strongest persuasion,<sup>5</sup> followed by positive threats, that the prosecutor was permitted by Metellus to have a copy of the senate's resolution to take to Rome as evidence.<sup>6</sup>

The list of seizures being completed and the evidence, as presented by the prosecutor, fully considered, we may return to the question introduced in the beginning of the present chapter.<sup>7</sup> The question is three-fold. First, was Verres a real connoisseur of art, or only an ignorant plunderer, as the prosecutor would have us believe? Secondly, to what extent did Cicero himself understand and appreciate art? Thirdly, is it possible to draw a comparison in this respect between the two men to the extent of concluding that in matters of aesthetic taste, limited strictly to the field of art, one was the superior of the other?

With regard to the first question, I have endeavored to show in a number of instances<sup>8</sup> that the prosecutor plainly overreaches himself in forcing a misinterpretation of the facts to fit his preconceived theory. It is the old peril of the deductive method, often so thoroughly exposed. In addition to the instances discussed, the governor is accused of seizing the golden *bullae* upon the door of the temple of Minerva at Syracuse merely because

<sup>1</sup> IV, 141.

<sup>2</sup> IV, 145.

<sup>3</sup> IV, 146.

<sup>4</sup> IV, 147.

<sup>5</sup> IV, 148.

<sup>6</sup> IV, 149.

<sup>7</sup> See pp. 95-97.

<sup>8</sup> The instances are as follows: the incident of the cups of Pamphilus, pp. 102-104; the examination of Sisenna's plate, p. 104; the return of the silver vessels of Philo and Eupolemus, p. 108; the return of similar vessels at Haluntium, p. 109; Verres's devotion to his *atelier* at Syracuse, pp. 110-111.

they were heavy and valuable.<sup>1</sup> But even such articles were often decorated in a way to make them objects of artistic merit, and the evidence for the charge is thus insufficient. More successful is the twitting of the praetor with his seizure of the huge bamboo spears in the same temple,<sup>2</sup> whose only merit was their size and rarity, and which therefore possessed no virtue as objects of art. But what collector is without his foibles, or what expert has not made mistakes? Granting the prosecutor's whole premise in this particular case, we could hardly justify his wholesale condemnation of Verres as a man of *no* aesthetic sense. The conclusion that the governor was absolutely illiterate, as far as Greek was concerned, rests on the flimsy premise that otherwise he would never have left standing the pedestal of the Sappho with its accusing inscription.<sup>3</sup> Certainly a man so utterly without scruple in much larger matters would not have been particularly careful about a thing relatively so slight.<sup>4</sup> Nor would it necessarily follow that the employment of the Cibratic brothers was a confession of ignorance upon the part of Verres. If he possessed any virtue of character, it was thoroughness. In a field as rich as Sicily, expert assistance would contribute much to the possibility of covering that field completely, and of letting no object of importance escape. The governor's success in his nefarious design was in itself a vindication of his methods, and a testimonial to his executive powers. His plan was too far-reaching to permit his personal superintendence of every detail. No true collector hesitates to employ or seek advice from other experts. That Verres was the unsuspecting dupe of his own experts, Cicero has utterly failed to establish.

On the other hand, the very wide range of the different varieties of objects collected by the governor is proof of the catholicity of his taste ; the description of the objects themselves

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<sup>1</sup> IV, 124.

<sup>2</sup> IV, 125.

<sup>3</sup> IV, 127.

<sup>4</sup> The pedestal would doubtless have been removed, as was that of the Segestan Diana (IV, 78, 79), if it had attracted as much unfavorable attention as the latter.

and the names of their creators are sufficient evidence that that taste was discriminating. The old wooden Fortuna in the chapel of Heius,<sup>1</sup> purely as an antique, may have had a money value far in excess of many of the figures which were appropriated. But it probably was not beautiful. Therefore it was left undisturbed. Verres could, however, appreciate antiques that were beautiful. A number of archaic statues are mentioned among those seized. Cicero himself states<sup>2</sup> that before the praetorship of Verres, the house of the latter was full of beautiful statues, that many were placed in his villas, loaned to his friends, or presented as gifts. One whose valuation of such things was wholly mercenary would not keep them about, but with great celerity would convert them into cash. Finally, in one passage<sup>3</sup> which cannot possibly be regarded as ironical, the prosecutor so far forgets himself as to admit unwittingly that Verres did possess judgment and taste, thereby involving himself in hopeless contradiction.<sup>4</sup> History shows that serious moral defects are not incompatible with the qualities of a connoisseur.<sup>5</sup> Verres's rascality was of an almost unmitigated type, but we cannot avoid the conclusion that in the *De Signis* he is the object of a deliberate attempt at misrepresentation. The fact that he had a very real, intelligent, and even expert appreciation of art in no wise lessens his guilt as an unscrupulous plunderer. That he was capable of such appreciation is now beyond question.

The second phase of the question is concerned with Cicero's own knowledge of art and his capacity to appreciate it. It is a subject upon which much has been said and written,<sup>6</sup> and upon

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<sup>1</sup> See p. 99.

<sup>2</sup> IV, 36.

<sup>3</sup> IV, 98.

<sup>4</sup> Cf. Thomas, *Verr. V*, Introd., p. 9.

<sup>5</sup> E. g., Pope Alexander VI, Caesar Borgia, Lorenzo de Medici, Benvenuto Cellini, Charles II of England, Louis XIV of France, etc.

<sup>6</sup> The particular literature of the subject, in addition to the numerous *Lives* of Cicero, is as follows.

König, *De Cicerone in Verrinis artis operum aestimatore et iudice*. (*Gym. Progr.*, Jever 1863.)

Stahr, *Cicero und sein Verhältniss zur Kunst*. (*Torso II*, pp. 209-230, Brunswick 1878.)

which it would be difficult to say anything new. Some consideration of it, however, will aid in the solution of the third phase of our question. We have already noted<sup>1</sup> the affectation of ignorance which in these orations<sup>2</sup> characterizes Cicero's attitude toward the art of Greece. It would, of course, be going too far to accept literally the suggestion that a man of Cicero's education, intellect, and interest in the humanizing influences of Greek culture could have been ignorant of even the names of the great artists. To any cultured Roman who had travelled in Greece and Asia, that would have been impossible. On the other hand, is there any good reason to suppose that Cicero's knowledge of art and his appreciation of it was more than superficial? A glance at the literature of the subject will prove valuable.

Among the first investigators in this field there is evident a tendency toward the extreme view of crediting Cicero with considerably more knowledge and enthusiasm than he really possessed. König is above all concerned with the question why Cicero in the Verrines often denied any intimate knowledge of art, concluding that such denial was a pure affectation on the orator's part for special rhetorical purposes. So enthusiastic does König wax in praise of what he represents as Cicero's worth as a connoisseur, that he would almost have the reader believe that

Göhling, *De Cicerone artis aestimatore*. (Diss. Halle 1877.)

Sandys, M. T. *Ciceronis Orator*, Introd. pp. lxxi-lxxiv. (Cambridge 1885.)

Rigal, M. *Tullius Cicero quatenus artium optimarum amator extiterit*. (Thesis, Paris 1890.)

Bertrand, *Études sur la Peinture et la Critique d'Art dans l'Antiquité*, pp. 259-320. (Paris 1893.)

Showerman, *Cicero's Appreciation of Greek Art*. (A.J.P. XXV, 1904, pp. 306-314.)

Wunderer, *Kunststudien zu Ciceros Verr. IV*. (Blätter für das Bayerische Gymnasialwesen XLIII, 1907, pp. 289-294.)

It would be impossible within the proper limits of this chapter to give more than the briefest statement of the views advanced. For any extended discussion of the subject, the reader is referred to the particular works.

<sup>1</sup> See p. 96 ff.

<sup>2</sup> For other instances, cf. II, 87; IV, 13, 33, 74, 124, 126, 132, 134.

the orator's two years' journey through Greece and Asia was undertaken solely for the purpose of viewing works of art.

Stahr's work is biased in the same direction, though to a less degree. He frankly admits that Cicero's knowledge and appreciation of art probably did not surpass that of the majority of cultured Romans of his rank and time. "The orator was not an art enthusiast in the technical sense, and it is evident that his feeling for the artistic was entirely subsidiary to other interests. In architecture he was an expert, as shown by his great interest in the planning and decoration of his own villas and those of his friends, and his house on the Palatine furnished Clodius with numerous statues, paintings, decorated doors and columns, before the latter razed it to the ground. Cicero's letters to Atticus contain requests for his friend to obtain sculptural and other decorations for the Tusculan villa. His love for art increased with his growing weariness with statecraft. Aptly he compared the degradation to which Pompey, in his estimation, had sunk politically, with the daubing of mud upon the Coan Venus of an Apelles. Not one of the orator's works had to do with art primarily, and yet after Pliny and Quintilian he is our chief source of knowledge with regard to the stylistic qualities of ancient Greek artists. His critical judgments are often confirmed by other sources. The ignorance he affected in the Verrines is conclusively disproved by his other writings. In all things an idealist, his insight into matters of art was decidedly uncommon." Stahr cites almost no references, and indulges freely in generalizations, many of which subsequent writers, notably Göhling and Showerman, have shown to be insufficiently supported by fact. His enthusiasm increases during the course of his writing, and the essentially sane viewpoint with which he began his work is almost obscured towards the end.

Neither of the foregoing scholars based his conclusions upon a systematic and complete study of all of Cicero's works, a defect criticized by Göhling,<sup>1</sup> whose dissertation was the first really

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<sup>1</sup> Göhling had seen Stahr's work, though it was not published until a year after his own.

adequate treatment of the subject. But he goes almost to the other extreme view, concluding that Cicero's knowledge of art was not only slight, but of the most elementary character, even proceeding to the length of accepting literally the prosecutor's persiflage about his own abysmal ignorance. Admitting the references to art and artists which may be cited from the orator's works, Göhling believes that such references are purely decorative,—merely the frills which the rhetorician considered necessary to the ornamentation of his style. It was good form to bring them in, even though they were nothing more than the parrot-like repetition of conventionalities. That it implied any actual knowledge of art on the part of the writer is not to be supposed for a moment. Göhling applies this theory to numerous passages, and condemns them all as absolutely artificial, almost as stylistic excrescences. Other writers were guilty of the same thing. Why not Cicero? After a systematic treatment of the Verrine passages, Göhling takes up those from the orator's other works. From such passages as those in the correspondence, where Cicero repeatedly urges Atticus, whom he had commissioned to purchase some sculptural decorations, "*quam plurima quam primumque mittat*," it appears that "he thus judged art works not by their beauty, but by the space they would fill." "His references to individual artists are not well chosen, and when several artists are mentioned in the same passage, the author's arrangement betrays his ignorance of their relative merits." The above are fair samples of Göhling's method. His was a most painstaking work but his conclusions were unduly colored by a preconceived theory, and consequently many of them are strained and impossible of acceptance. He undoubtedly went too far in his refusal to credit Cicero with even a superficial ability to appreciate art, but he also performed a service by demonstrating the fact that König and Stahr had gone to the other extreme.

It was to be expected that later writers would find the truth midway between the extremists, and this we find to be the case. Sandys characterizes Cicero's knowledge of art as probably not

more than superficial. In his travels he had, of course, seen the most famous works which came in his way, and he was undoubtedly indebted to Greek writers on art subjects, such as his contemporary, Pasiteles, and to Varro. But he never regarded it as a subject of serious study. His allusions to art are largely rhetorical. The adornment of his villas became a sort of temporary hobby, but most of the works about which he wrote to Atticus were for the adornment of his study, and he was even more eager about his books than his busts. "In one letter<sup>1</sup> he is obviously annoyed to find himself committed to purchasing at an enormous price a Mars and some Maenads, both of them subjects singularly inappropriate (he thinks) to his peaceful and sober study. He adds that he is wanting to decorate with paintings some alcoves he has recently thrown out in a colonnade of his Tusculan villa, 'for' (he adds) 'if anything in that line pleases me, it is painting.' This is not, it is true, the language either of an enthusiastic student of art, or of an intelligent connoisseur; but we may at least accept it as a pledge of *condescending appreciation*." The latter phrase graphically expresses Sandys's estimate of the orator's attitude toward the art of expression in plastic materials rather than in words, his favorite medium.

Rigal<sup>2</sup> shows that Cicero's interest in aesthetics was wholly subordinate to political ambition.

Bertrand characterizes Cicero as an artist, in the sense of one who has an acute sense of the beautiful, but without the fine perceptions reserved to those who practice art. His interest in oratory was first; all others subsidiary. "He was then, what we call a *dilettante*, and we should not pretend to attribute to him a degree of artistic knowledge to which he did not even aspire. It was the case of Verres which contributed most to his education in matters of art. He must have caught some of the enthusiasm

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<sup>1</sup> *ad Fam.* VII, 23.

<sup>2</sup> As appears by the outline of his thesis in the *Catalogue et Analyse des Thèses Françaises et Latines*, (Paris 1890). I have been unable to obtain access to the work itself.



for it which characterized the Sicilians, plaintiffs against the governor who had stolen their treasures. Cicero's correspondence contains some enthusiastic references to art, but these are all dated after the year of the great trial. Also, they are largely incidental, intended to give point to a political or an oratorical reference. Capable of adequately analyzing a fine work, and of describing it with taste, Cicero might have found in the Verrines an opportunity to exercise his talent. But he feared to bore the judges,<sup>1</sup> and confined himself mostly to innocuous phrases like 'a fine painting,' 'a statue of beautiful workmanship,' etc., though his description of the Segestan Diana<sup>2</sup> shows taste and knowledge. To say that he knew painting and sculpture technically would be forcing a conclusion, for to that he did not aspire. He recognized a natural, inborn, artistic sense which would render most men safe judges."

Showerman's paper, completed without any reference to previous works and entirely independent of them, lays emphasis upon Cicero's lack of enthusiasm for Greek art rather than upon his deficiency in knowledge of it. His predilection for the Greek language and literature prove nothing as to his attitude towards other forms of Greek art. In Cicero's works we find the names of the following painters; Aglaophon, Polygnotus, Zeuxis, Parrhasius, Timanthes, Nicomachus, Aetion, Apelles, and Protogenes,—that is, a number of names which we know from other sources to belong to the fifth and fourth centuries. The mention of these names is accompanied by very commonplace and superficial comment, and with no evidence of any enthusiastic admiration for the art of painting. Among sculptors he names Calamis, Canachus, Myron, Alcamenes, Phidias, Polyclitus, Lysippus, Praxiteles, Scopas, Silanion, Polycles, and Myrmecides—a fairly complete list, if two names, Cresilas and Paonius, be added. Cicero was evidently more familiar with sculpture than with painting, and his knowledge of it was slightly more critical, but there is little to indicate more than a

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<sup>1</sup> IV, 109.

<sup>2</sup> IV, 74.

very ordinary familiarity with, or love for even sculpture. All references to art, except in the Verrines, are purely illustrative, a part of the rhetorician's stock in trade, all commonplaces, and entirely subsidiary to his greatest interest, rhetoric. His statement that his knowledge of works of art was not in proportion to the number he had seen<sup>1</sup> was simply the truth. The sculptural equipment of the Tusculan villa consisted chiefly of Herms, Hermathenas, and *signa Megarica* procured for him by Atticus,<sup>2</sup> objects for ornament merely, unsigned and of no artistic importance. He had as little interest in the acquisition of works of sculpture for their own sake as he had in the acquisition of knowledge of sculpture for its own sake. In the thousand pages of his correspondence there are exactly three references<sup>3</sup> to Greek art of the good period. Such a silence is eloquent. His enthusiasm was purely stylistic, his knowledge superficial.

Wunderer is largely in accord with Showerman, though he attributes to Cicero a slightly greater interest in art than does the latter. But even so, "Cicero had no ambition to pose as a connoisseur, and was under no illusions as to his own limitations, although the persiflage in the *De Signis* is not to be taken literally. But he had seen much, and that in itself must have had its influence, as it would have upon any careful and cultured observer. His criticisms of single works are all trite." The other views expressed by Wunderer are practically a restatement of those presented by the immediately preceding writers.

Any careful perusal of Cicero's own words, supplemented by an unprejudiced consideration of the works above cited, can lead one only to the conclusion that the view of the writers since Göhling is the correct one; namely that while the great orator undoubtedly possessed a knowledge of art and a certain capacity to appreciate it, neither his knowledge nor his critical faculties in this field were profound enough to enable him to qualify as an expert or a connoisseur, a distinction to which he made no

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<sup>1</sup> IV, 94.

<sup>2</sup> *ad Att.* I, 1, 15; 3, 2; 4, 3; 5, 7; 6, 2; 8, 2; 9, 2; 10, 3; 11, 3.

<sup>3</sup> *ad Fam.* V, 12, 7; I, 9, 15; *ad Att.* II, 21, 4.

serious pretension, and toward the attainment of which, no serious effort.

In drawing any comparison between Cicero and Verres, we are at once confronted with two difficulties: first the common one, always encountered in any attempt to compare and estimate qualities so highly subjective as those which enter into the mental and spiritual make-up of the expert; second, the fact that while we have not a single word of Verres upon which to base an opinion, we do have many acts, though it is true that they must all be viewed through the eyes of the prosecuting attorney; of Cicero we have many words and few acts. The difficulty consists in finding a common basis of comparison. Therefore it may as well be admitted that absolute proof is out of the question. We shall not be able to say that we know that in this respect the one was the other's superior. But the facts do seem to indicate a reasonable probability. In this connection the view of Bertrand, already quoted, has a bearing. He very reasonably concludes that the preparation of this very case was the chief contributing factor towards the prosecutor's artistic education. It would only be natural, in consequence of frequent conferences with the Sicilian plaintiffs, who mourned most deeply the loss of their cherished works of art, that either involuntarily the Roman rhetorician should become infected with some of their enthusiasm, or that he should deliberately contrive to catch some of it, in order to increase the effectiveness of his brief. If such were the case, it would be entirely consistent with the purely stylistic use elsewhere of his aesthetic knowledge. There was at least a germ of truth in the prosecutor's laughing statement, "You see that in preparing my case against Verres I have even learned the names of the artists."<sup>1</sup> The actual names he must have known before, but it is certainly not unreasonable to suppose that at the end of his fifty days' journey<sup>2</sup> through the province in search of evidence, these had become more than mere names to him, and that his knowledge of what stood behind the

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<sup>1</sup> IV, 4.

<sup>2</sup> Act. I, 6.

names had been considerably increased. On the other hand, we have seen that during the three years previous, Verres in his seizures had shown discriminating judgment and high appreciation of what was best. Add to this the fact that he was the senior of the prosecutor by seven or eight years,<sup>1</sup> that he had had the same advantages of wide travel in Greece and the East, and we are brought to the conclusion that at the time of the trial, or at least immediately before it, he was probably Cicero's superior in the knowledge and appreciation of art. I am confident that any careful and unbiassed consideration of the facts will either lead one to this conclusion or force him to admit its probability. Nor is it over-bold to assume that the balance of superiority was not disturbed by the training in the field of art which the preparation of the prosecutor's brief in this trial entailed. In the quiet of an exile's life, Verres would have had far more leisure for indulgence in his hobby and for advancement in knowledge and critical powers than the busy orator, engrossed at the capital in problems of statecraft and personal ambition. If we may credit the tradition, Verres's devotion to art was the cause of his death. He was proscribed by Antony, for having refused to part with some fine Corinthian ware.<sup>2</sup> It is at least established that he remained a lover of art to the end, and it would seem highly improbable that as a connoisseur Cicero ever surpassed him. The knowledge of his own defects as a critic would furnish another motive for the attitude of condescension and contempt toward the governor's "pretensions" so characteristic of Cicero's manner in the *De Signis*. Ridicule is often the only weapon remaining to conscious inferiority.

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<sup>1</sup> Cicero was born B.C. 106 (ad Att. VII, 5); Verres about 114. (Cf. p. 4.)

<sup>2</sup> Pliny N. H. XXXIV, 2, 6; Seneca, Suasor. VI, 3. It hardly seems probable that this refusal was the sole cause of the proscription.

## CHAPTER VI.

### ADMINISTRATION IN SICILY (B. C. 73-71). (DE SUPPLICIIS).

Roman court procedure was evidently more lenient than that of today, especially in regard to the introduction of irrelevant testimony. For under this head practically the whole of the fifth book of the *Actio Secunda* might have been rejected. The speech is very slightly concerned with the actual charge of *Repetundae* or extortion, upon which the action against Verres was brought. On the other hand, it forms the climax of the whole accusation, presenting a most damning picture of the praetor, a portrait in which the high lights are his military incapacity and treachery, his indolence and luxuriousness, his wanton immorality, and finally his exquisite cruelty and disregard of civil and legal rights, illustrated by the torture and ignominious execution even of Roman citizens. The speech falls naturally into three parts. The first<sup>1</sup> deals with the conduct of Verres with regard to the Slave War in Italy; the second<sup>2</sup> with the criminal inefficiency of his fleet, which fell an easy prey to the pirates who infested Sicilian waters; the third<sup>3</sup> with the punishments inflicted upon citizens. It is from this last part that the oration takes its name, *De Suppliciis*.<sup>4</sup>

#### *A—The Slave War.*

In order to introduce the first topic, Cicero supposes<sup>5</sup> that the great Hortensius, Verres's advocate, has appealed to the judges upon the premise that the defendant, "by his valor and by his singular vigilance exerted at a critical and perilous time, had preserved his province from the fugitive slaves and from the dangers of war,"<sup>6</sup> and that upon this basis he should be spared

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<sup>1</sup> V, 1-41.

<sup>2</sup> V, 42-138.

<sup>3</sup> V, 139-174.

<sup>4</sup> This, and the other titles of the orations were originated by the grammarians, and have become traditional.

<sup>5</sup> It is necessary to keep in mind that the speeches in the *Actio Secunda* were never actually delivered. The fiction of a second trial was the orator's method of handing down to posterity his gathered material.

<sup>6</sup> V, 1.

a conviction, even though the charges of extortion might be fully proved.<sup>1</sup> During the three years of the Sicilian administration, Italy had been ravaged by slaves and gladiators under Spartacus and Crixus. The insurrection was finally quelled by Crassus and Pompey.<sup>2</sup> Hortensius is represented as claiming for Verres credit for the fact that the war was prevented from spreading to Sicily,<sup>3</sup> where slave uprisings were by no means unknown, and therefore greatly feared. The circumstance that none of the slave forces succeeded in crossing to Sicily, Cicero refuses to ascribe to any cause but the foresight of Crassus, who made it impossible for the enemy to build boats, thus making unnecessary any precautionary measures in the province. The force of this contention is considerably weakened by the fact, which we know from other sources,<sup>4</sup> that attempts were made by the slaves to cross the strait, which attempts Verres may have rendered futile, and that the governor did actually fortify his shores against the threatened invasion.

So great was the provincial dread of a repetition of the last slave uprising, that since the time of Aquilius every praetor had made it a capital offense for a slave to be found even in possession of a weapon.<sup>5</sup> L. Domitius Ahenobarbus,<sup>6</sup> ordered a slave in-

<sup>1</sup> V, 2, 4. This sort of compensatory defense was technically known as *Deprecatio*, and is discussed by Cicero in *De Inventione*, I, 11, 15. Cf. *Auct. ad Herenn.* I, 14, 24; Quint. Inst. Orat. V, 13, 5; VII, 4, 17, 18; 20. In the present instance (V, 3) he proceeds to cite a case of such an appeal a few years before. M. Aquilius (consul B.C. 101) had been successful in putting down the servile uprising in Sicily during the years 101-100 and had been honored with a triumph. But in B.C. 98 he was accused of extortion in the court of *Repetundae*. The evidence against him was conclusive, but the great orator, M. Antonius, grandfather of the triumvir, secured his acquittal by a dramatic appeal, in the course of which he bared Aquilius's breast to show the wounds incurred in defense of the Roman people. (Cf. Cic. *pro Flacc.* 39, 98; *de Orat.* II, 28, 124; 47, 194; *de Off.* II, 14, 50.)

<sup>2</sup> Cf. Plutarch, Crassus xi, Pompeius xxi.

<sup>3</sup> V, 5.

<sup>4</sup> Florus II. 8; Sallust Hist. Fragm. IV, 10 (31). *C. Verres litora Italiae propinqua firmavit.*

<sup>5</sup> V, 7.

<sup>6</sup> Consul B.C. 94. His Sicilian praetorship was probably shortly after the close of the Slave War.

stantly crucified for having admitted the killing of a boar with a hunting spear. A later praetor, C. Norbanus,<sup>1</sup> is mentioned as having experienced no difficulty from uprisings, even though during his administration Italy was in the throes of the Social War.<sup>2</sup> Cicero thus endeavors to show that the absence of such disturbances during the three years 73-71, was due wholly to the cumulative effect of the stringent precautions already taken, and in no wise to any administrative measures emanating from the praetor's house.<sup>3</sup> Attempts at revolt were not entirely wanting,<sup>4</sup> however, and the prosecutor implies that Verres, for his own purposes, set afloat suspicions of such contingencies and then capitalized them. At Triocala,<sup>5</sup> a former stronghold of the rebels, the slaves of a certain Leonidas had been found to be implicated in a conspiracy.<sup>6</sup> By Verres's order they were arrested and taken to Lilybaeum, and their master was cited to appear there. Upon the hearing of the case the men were condemned, and tied to the stake for execution. Then suddenly, in the sight of the assembled multitude, they were unbound and delivered back to Leonidas. The conclusion was inevitable that a substantial bribe had prompted the governor to suspend sentence and save the man's property from destruction.<sup>7</sup> The release at such a crisis, of slaves convicted of conspiracy would hardly argue for the efficiency of the governor's precautions against uprisings, or for the sincerity of his program for the defense of his province.<sup>8</sup> Such transactions developed into a profitable business. On similar terms, slaves were returned to Aristodamus of Apollonia and to Leon of Imachara.<sup>9</sup> An extension of this method was the bringing of capital charges against valuable

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<sup>1</sup> Consul B. C. 83. Praetor in Sicily between 91 and 81.

<sup>2</sup> V, 8.

<sup>3</sup> Ibid.

<sup>4</sup> V, 9.

<sup>5</sup> Situated in western Sicily, between Selinus and Heraclea.

<sup>6</sup> V, 10.

<sup>7</sup> V, 11.

<sup>8</sup> V, 12-14.

<sup>9</sup> V, 15.

slaves of wealthy masters, which charges were withdrawn only for a price. In this way 60,000 sesterces were extorted from Eumenides of Halicyae, and from C. Matrinus, a Roman *eques*, 100,000 sesterces. Apollonius of Panormus, another rich man, was cited to answer to the charge that one of his slaves, his chief herdsman, whom the governor named, was guilty of conspiring and inciting rebellion among other slaves.<sup>1</sup> Apollonius replied that he owned no slave of that name, but he was hurried off to prison in spite of his protestations of innocence and his explanations that he had no available cash with which to buy justice. To such a capitalist, nothing could have been more disastrous than a slave war,<sup>2</sup> conspiracies to incite which Verres represented him as encouraging. In the darkness and filth of the prison Apollonius was confined for eighteen months.<sup>3</sup> Access to him was denied to his aged father, Diocles, and to his young son. Every time Verres visited Panormus he was entreated by the senate, the magistrates and the priests to release their unfortunate fellow citizen. To all of these appeals the praetor was deaf, until one day, without further trial or formality he suddenly ordered Apollonius to be set free.<sup>4</sup> The only explanation was that the man, worn out under his persecution and unable to resist longer, had paid the governor's price. His case served as a useful example, by citing which Verres forced numerous other wealthy Sicilians to contribute heavily to his private treasury.<sup>5</sup>

The prosecutor cleverly burlesques Verres's claims to the qualities of a military leader by describing his mode of life. "See how easy and pleasant to himself Verres, by his own ingenuity and wisdom, made the labor of marches, a thing which is of the greatest importance in military operations and especially

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<sup>1</sup> V, 17.

<sup>2</sup> V, 18, 20.

<sup>3</sup> V, 21. Sihler, *op. cit.*, (p. 84) states the length of time he was confined as "one half year," in spite of the undisputed reading of the text, *illo anno et sex mensibus*.

<sup>4</sup> V, 22.

<sup>5</sup> V, 23, 24.



necessary in Sicily."<sup>1</sup> During the winter season he remained "in quarters" in the luxurious city of Syracuse, enjoying its mild climate, rarely appearing out of doors at all, and spending the short days in banquets, the long nights in sensuous indulgence. Nor did he admit that spring had come until the rose appeared, for spring signalized the renewal of military operations, when he would be obliged to devote himself to labor and to marches.<sup>2</sup> Upon these "marches," like an oriental monarch he was borne by eight men in a litter, in which was a beautiful cushion of Maltese linen, stuffed with roses.<sup>3</sup> He himself wore one garland on his head, another around his neck, and he kept applying to his nose a little net of very delicate linen of finest mesh, containing roses. He never appeared on horseback. Having arrived at any town, he was borne in the litter to his chamber. There he conducted official business and heard in private matters of litigation which should have been heard publicly in court, and from there he issued the purchased decrees. The rest of his time was devoted to Venus and Bacchus. In every town where the praetors were accustomed to hold court,<sup>4</sup> a Greek woman, usually a lady of station, was selected for the distinction of the governor's favor, and sometimes she appeared openly at his banquets.<sup>5</sup> These banquets, instead of being characterized by the dignity of his station, proceeded amid noise and loud conversation, often degenerating into actual fights, and at the end the banquet room resembled nothing so much as a battlefield, from which some were carried out in-

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<sup>1</sup> V, 26.

<sup>2</sup> The latest blooming flower of spring. Cf. Pliny N. H., XXI, 65, *novissima rosa*.

<sup>3</sup> V, 27.

<sup>4</sup> Ibid.

<sup>5</sup> Among these were Syracuse, Agrigentum, Panormus, Lilybaeum. (II, 63).

<sup>6</sup> V, 28. Thomas (Verr. V, p. 53) notes, "Cf. dans les mémoires de Mme. de Rémusat, I, p. 120, les *distractions* que se ménageait Bonaparte dans les courts répit de ses affaires et de ses batailles." Upon which Holm (G. S. III, 408) remarks, "Was bei Bonap. *courts répit* waren, war bei Verres das ganze Leben."

sensible, and others left lying about as if dead or wounded. In midsummer when threshing and general activity best displayed the island's resources and prosperity, and when slave uprisings would be most probable, former praetors had made a practice of traversing the province.<sup>1</sup> But this "new sort of general" pitched a permanent camp for himself in the loveliest spot in Syracuse, at the entrance to the harbor "where first the bay begins to curve from the shore of the open sea toward the city."<sup>2</sup> Thither, to the tents of fine linen, he migrated for the summer, accompanied by a choice crew of boon companions, to whom alone access to him was possible. There were gathered all the women of Syracuse with whom he had had *liaisons*, an incredible number, and many men of a character to recommend them to the governor's favor. Even his young son was permitted to live in the pernicious atmosphere. Tertia, the actress,<sup>3</sup> was there, and her presence was the cause of many heart-burnings on the part of the nobly born ladies who resented the intrusion of one not of their station.<sup>4</sup> Among the offended ones were the wives of Cleomenes and Aeschrio of Syracuse. But of all his harem, Tertia was the governor's favorite, and her only did he bring away from the province with him. During the whole summer he whiled away the time with his favorites; the forum and the courts were deserted; the whole water-front resounded with gayety and music.

Thus mercilessly does Cicero flay the supposed plea of Hortensius on the basis of his client's military prestige.<sup>5</sup> The prosecutor gravely admits that Verres was "at his post"—at the gaming table,<sup>6</sup>—where he suffered "enormous losses" in his "campaigns;" that he stormed many carefully guarded citadels

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<sup>1</sup> V, 29.

<sup>2</sup> V, 30. Cf. V, 80, *in litore, quod est litus in Insula Syracusis post Arethusae fontem*. This describes the location more exactly as on the Island (of Ortygia).

<sup>3</sup> Cf. III, 78.

<sup>4</sup> V, 31.

<sup>5</sup> V, 32.

<sup>6</sup> V, 33.

of chastity and virtue ;<sup>1</sup> that in this "field" he had indeed gained many laurels. In a passage<sup>2</sup> characterized by the most exalted egotism and the highest degree of self-complacency,<sup>3</sup> the orator contrasts his own attitude toward the responsibilities of public office<sup>4</sup> with that of Verres, and concludes the first part of his speech with the relation of an incident which took place during Verres's journey from Sicily to Rome. At the close of the Slave War the town of Tempa in Bruttium was besieged by a remnant of the defeated forces of Spartacus. Just at this juncture the returning praetor passed near the town, and was approached by a delegation from the near-by city of Valentia, whose members urged him to act as their leader in routing the besiegers and rescuing their neighbors.<sup>5</sup> But the doughty Verres preferred his long Greek tunic to the panoply of war, and the society of Tertia to the command of troops. A brave man and a soldier would hardly have let slip such a chance to appeal to the popular imagination, especially if he were facing the imminent danger of impeachment for maladministration. At the same time in Rome someone was suggesting to the senate (then deliberating in the temple of Bellona concerning the danger threatening Tempa) that in the absence of a commander to send thither, Verres was in the vicinity of the beleaguered town and might be used.<sup>6</sup> The general disapprobation and immediate repudiation of the suggestion demonstrated only too vividly the opinion of the governor's military prowess which was held by the senate. Evidently Verres was no soldier, and Cicero had no great difficulty in establishing the fact.

*B—The Crimen Navale.*

The second part of this speech concerns Verres's use of the fleet, not as an instrument of defense, to be carefully conserved

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<sup>1</sup> V, 34.

<sup>2</sup> V, 35-59.

<sup>3</sup> Holm (G. S. III, 408) notes that only the greatness of the orator's art saves him from making himself ridiculous here.

<sup>4</sup> Cicero was then aedile-elect. (V, 36.)

<sup>5</sup> V, 40.

<sup>6</sup> V, 41.

and developed, but as a means of enriching himself, to be exploited in every possible way.<sup>1</sup> Custom and treaties had authorized the levying of ships and men upon the provincial cities, and yet, as has already appeared,<sup>2</sup> the wealthy city of Messina was exempted from this obligation to the state. But to the praetor personally, the favored city furnished a fine merchant vessel, built at public expense, destined to serve as the means of exporting the great mass of his plunder.<sup>3</sup> Any claim that Verres had built the ship at his own expense Cicero meets by citing the old *Lex Claudia* of B. C. 218, which prohibited those of senatorial rank from building or owning ships of any great size.<sup>4</sup> Furthermore, Heius of Messina testified at Rome that the ship had been built at public expense, the materials having been obtained by a requisition upon Rhegium.<sup>5</sup> The fact that the accounts of the Mamertines had no record of such a disbursement might easily be explained by the supposition that workmen were pressed into service and compelled to donate their labor, thus saving the state any pecuniary outlay; or that large sums of money, paid out of the public treasury for imaginary contracts and for work that never was done, really passed directly into the governor's hands.<sup>6</sup> The release of the Mamertines from the obligation to furnish a war-ship was in direct violation of the terms of their treaty as a *Civitas Foederata*.<sup>7</sup> Just the opposite procedure took place with regard to Tauromenium, another federated city, whose treaty expressly provided exemption from the naval levy. Its citizens were forced to furnish a ship. Cicero dryly remarks that "that merchant vessel was a greater

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<sup>1</sup> V, 43.

<sup>2</sup> See p. 100 ff.

<sup>3</sup> V, 44.

<sup>4</sup> V, 45. The law is quoted by Livy (XXI, 63). The fact that it had fallen into disuse is felt by Cicero as a weakening of his argument, which he endeavored to strengthen by conventionally lauding the old-time republican severity and dignity. (V, 46).

<sup>5</sup> V, 47.

<sup>6</sup> V, 48.

<sup>7</sup> V, 49.

assistance to the Mamertines than the treaty was to the Tauro-menians."<sup>1</sup> The governor's new ship was the price of exemption, not only from the obligation to furnish a war-ship, but also from enrolling any forces to man it or to serve as a land garrison.<sup>2</sup> As a *Civitas Foederata*, Messana was exempt from the payment of *decumae* but not from the furnishing of *frumentum emptum*<sup>3</sup>, the amount of which was specified as 60,000 *modii*. This was also remitted<sup>4</sup> by decree of the praetor,<sup>5</sup> an absolutely unprecedented act, explicable only on the ground that Verres received his price.<sup>6</sup> Additional color was lent this theory by the fact that the plea of *Netum*, another *Civitas Foederata* whose case was exactly analogous to that of Messana, asking a like exemption from *frumentum emptum*, was denied.<sup>7</sup> Evidently the petition was unaccompanied by the most efficacious means of eliciting favorable consideration. It was all too evident why Messana, of all the Sicilian cities, was the only one to send to the great trial witnesses to testify for the governor.<sup>8</sup>

The sums spent yearly in equipping and maintaining a fleet for defense against the Mediterranean pirates furnished an opportunity for further exploitation. It had been the practice for each city to entrust the management of its own contingent to a *nauarchus* or naval commissioner, doubly responsible to the sailors in the city's service and to the city itself.<sup>9</sup> Verres ordered that all funds for the maintenance of the fleet, formerly handled by the *nauarchi*, should be paid directly to himself, so

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<sup>1</sup> V, 50.

<sup>2</sup> V, 51.

<sup>3</sup> V, 52.

<sup>4</sup> V, 53.

<sup>5</sup> V, 54.

<sup>6</sup> V, 55.

<sup>7</sup> V, 56.

<sup>8</sup> V, 57, 58. Sihler, *op. cit.*, (p. 85) suggests that there is "little doubt that Cicero set out to injure Messana before the public opinion of Rome in a digression due to his wounded *amour propre*." (He had suffered a deliberate slight there. See p. 101.)

<sup>9</sup> V, 60.

as to make it possible to place the money in the hands of his own satellites, who would know exactly what to do with it. Many of the cities paid fixed sums to be excused from furnishing their quota of men ;<sup>1</sup> those who were furnished by other cities he released from service upon the payment of 600 sesterces per man ;<sup>2</sup> the pay of those thus discharged he appropriated, making the transaction thus doubly profitable ; the pay of those who did serve was cut down.

Such a *régime* could serve only to reduce the fleet to the minimum of efficiency and to utter demoralization, even in face of the fact that there was great need of an adequate arm of defense against the freebooters, who were not destined to be swept from the sea for several years to come.<sup>3</sup> Ten half-manned ships under the command of P. Caesetius and P. Tadius,<sup>4</sup> composed the naval strength of the province.<sup>5</sup> A single pirate ship with a rich cargo of slaves, silver plate, coined money, and fine tapestries, was accidentally captured at Megaris, near Syracuse. The governor, carousing in his summer camp at the harbor, was informed of the prize, and ordered all the booty brought to him intact. Only the old and ugly prisoners were treated as enemies. The handsome, the young, the skilled were removed and distributed to his secretaries, his suite, and his son.<sup>6</sup> Six skilled musicians were sent as a gift to a friend in Rome. According to all precedent, the pirate captain should have been immediately executed.<sup>7</sup> Rumor had it that money saved his life. At any rate he was concealed from public view, spared the hardships of the famous Syracusan stone-quarries (*lautumiae*),<sup>8</sup> the most

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<sup>1</sup> V, 61.

<sup>2</sup> V, 62.

<sup>3</sup> Pompey's victorious campaign of forty days was in B.C. 67.

<sup>4</sup> The quaestor and legatus of Verres. (Cf. II, 49 ; IV, 146.)

<sup>5</sup> V, 63.

<sup>6</sup> V, 64.

<sup>7</sup> V, 65-67.

<sup>8</sup> V, 68. Cf. V, 143.

secure prison available,<sup>1</sup> and sent to the interior town of Centuripae, whose inhabitants were enjoined to provide him with every comfort.<sup>2</sup> Considerably more than half the crew had thus been disposed of, only the unfortunates who had nothing to recommend them being confined in the quarries awaiting execution. The usual practice was to execute an entire pirate crew at one time and place, but realizing that there would be a popular outcry when it was evident how many of the prisoners had escaped the just penalty, Verres ordered those doomed to death to be brought out in small parties at different times. But the Syracusans were naturally interested in seeing that the criminals who made sea travel a terror were duly punished, and took it upon themselves to keep a daily account of those executed, comparing the slowly growing total with the size of the ship's company, easily estimated from the vessel's tonnage and number of oars. When the discrepancy was still great, the citizens openly demanded that the remainder of the pirates be produced. In this exigency Verres committed one of the most atrocious acts of his career. In the quarries was a considerable number of Roman citizens, some of them supposed to be former soldiers of Sertorius, fleeing from Spain after the assassination of their leader in B.C. 72, and driven ashore in Sicily.<sup>3</sup> Others who had been made prisoners by the pirates were accused of complicity with their captors. Some of these men were substituted for the pirates who had been spared, and with their heads veiled, that the deception might not be penetrated by the acute Syracusans, were led out to execution. Others were recognized by many Roman citizens, but their heads fell, nevertheless.<sup>4</sup> Verres himself afterwards admitted that the captain was never executed<sup>5</sup> and

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<sup>1</sup> V, 69.

<sup>2</sup> V, 70.

<sup>3</sup> V, 71.

<sup>4</sup> V, 72.

<sup>5</sup> Cicero contrasts (V, 151-153) Verres's treatment of the alleged Sertorians with the general amnesty granted by Pompey in Spain to the dead leader's followers.

<sup>6</sup> V, 73.

that he himself kept the man and one of his fellow pirates in his own private house after leaving the province, until they were arrested and imprisoned by order of M'. Glabrio, the praetor who presided at Verres's trial.<sup>1</sup>

Still the banquets in the governor's summer camp went on, wanton feasts to which no man was admitted but Verres and his young son, and sometimes the freedman Timarchides.<sup>2</sup> The women were mostly Syracusan matrons of noble station whom the praetor had honored in his own peculiar way. Among these, in addition to those already mentioned, were his favorite, Pipa, wife of Aeschrio,<sup>3</sup> and the lovely Nice, wife of the Syracusan Cleomenes,<sup>4</sup> whom Verres had assiduously cultivated with gifts and favors, and who therefore feared to interfere in his wife's *amours*. But in order to be entirely rid of the presence of the injured husband, the governor did an unprecedented thing in appointing the man, a Sicilian, and not even a Roman citizen, to the command of the fleet in place of his own quaestor and *legatus*.<sup>5</sup> The fleet now consisted of seven ships, one each from

<sup>1</sup> V, 76. Cf. I, 12. In both passages Cicero hints that if Verres did succeed in securing an acquittal of the charge of *Repetundae*, he would still be liable on the charge of *Majestas*, harboring a public enemy, *i.e.*, constructive treason.

<sup>2</sup> V, 81.

<sup>3</sup> See p. 75.

<sup>4</sup> V, 82.

<sup>5</sup> Cicero makes much of the fact that Marcellus had forbidden any Syracusan to dwell on the Island, which commanded the harbor, and which would thus afford an opportunity for treacherous activities in time of war. "They took away from the Syracusans all access to the shore; you have given them command of the sea." (V, 84, 85). He also dilates at length upon the fact that the appointment of a Syracusan was an insult to a city like Centuripae which had always been faithful to Rome and trusted by her. The plea that a Centuripine should have been appointed to the command of the fleet involves a curious and complete inconsistency (noted by Holm, G. S. III, 408-409) with the orator's statement (V, 70) in regard to the inhabitants of this inland town: *homines a piratarum metu ac suspitione alienissimos, a navigando rebusque maritimis remotissimos, summos aratores, qui nomen numquam timuissent maritimi praedonis*. And yet only 14 sections further along in the speech, he regards it as extraordinary that Verres should not appoint one of these same agriculturists, entirely ignorant of naval affairs, to the supreme command. "Truly," says Holm, "Hortensius, in replying to the Verrines, would have had an extraordinary opportunity for a fine bit of rhetorical work!"



the cities of Centuripae, Segesta, Tyndaris, Herbita, Heraclea, Apollonia, and Haluntium,<sup>1</sup> a fleet to all appearances seaworthy and efficient, but greatly weakened and rendered utterly unfit for serious operations by the wholesale discharge of its fighting men and rowers. As it passed out to sea the little squadron was reviewed by the praetor standing on the shore, clad in a purple *pallium* and his long, effeminate tunic, wearing the house sandals of the voluptuous dweller in-doors, leaning on the arm of a servant girl.<sup>2</sup>

After a five days' voyage, the fleet arrived at Pachynum, the southeastern cape of Sicily, where the sailors, compelled by hunger, gathered the roots of the wild palm which flourished there and elsewhere throughout the island.<sup>3</sup> Thus for some time they dragged out a precarious existence, while their commander, "thinking himself another Verres," spent all his days in drinking within his tent on the shore. Suddenly to the besotted Cleomenes and his famishing crews the report came that a pirate fleet was in the harbor of Odyssea, not far from Pachynum. In his shortage of men, Cleomenes had hoped to draw enough from the garrison at Pachynum to fill the ranks. But his hopes were dashed by the fact that it had proved as easy to purchase discharges from such service as from naval duty, and only a few men remained. In panic he ordered the fleet to weigh anchor and follow his flagship, the Centuripine quadrireme.<sup>4</sup> This ship, besides being the fastest of the fleet, was nearest to having a full crew, and it had vanished from view—not in the direction of Odyssea, but in full flight towards Helorus—before the rest of the vessels were under way. In order to emphasize the cowardice of the craven Cleomenes, Cicero represents the rest of the commanders as showing more

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<sup>1</sup> V, 86.

<sup>2</sup> Quintilian (Inst. Orat. VIII, 3, 64) cites the passage as an example of *ἐνάργεια* or vivid word-painting, and Drumann (V, 327) describes the scene as not unworthy the effort of an artist.

<sup>3</sup> V, 87.

<sup>4</sup> V, 88.

of a willingness to fight the enemy.<sup>1</sup> But the flagship had been the only decked vessel, was much larger than the rest, and would have loomed large over any of the piratical galleys. Deprived of this support, they started in the wake of their commander. The pirates, coming up from behind, attacked the ships in turn, and the first taken was that from Haluntium, commanded by Phylarchus of that city,<sup>2</sup> who was afterward ransomed and appeared as a witness at Rome. The Apollonian vessel was next to succumb and its captain, Anthropinus, was killed.

In the mean time Cleomenes had reached Helorus, beached his ship, and fled ashore.<sup>3</sup> The four commanders who survived managed to elude the pirates that far, and followed his example. That evening the five vessels were burned by order of the pirate commander, Heracleo. It was late that night when news of the disaster reached Syracuse. Cleomenes, who had immediately returned to the capital, denied himself to every one.<sup>4</sup> The praetor, sleeping off the effects of a carouse, had given strict orders that he was not to be disturbed. But a great crowd gathered, panic-stricken at the momentarily expected arrival of the victorious pirates.<sup>5</sup> Loud cries for the governor aroused him, and Timarchides informed him of the situation.<sup>6</sup> It was now almost dawn. Drowsily he donned the military cloak and faced the crowd, by whom he was received with a threatening shout, which was reminiscent of that other angry mob at Lampsacus.<sup>7</sup> The enraged provincials openly taunted him with his banquets, his women, and his neglect of governmental functions. Some of the bolder spirits even threatened his life, but more sober counsels prevailed, arms were seized, the forum and Ortygia were garrisoned.<sup>8</sup>

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<sup>1</sup> V, 89.

<sup>2</sup> V, 90.

<sup>3</sup> V, 91.

<sup>4</sup> V, 92.

<sup>5</sup> V, 93.

<sup>6</sup> V, 94.

<sup>7</sup> See p. 10.

<sup>8</sup> V, 95.

That morning the pirates, leaving the smoking hulks of the fleet behind, set sail for Syracuse. Arriving at the deserted summer camp of Verres, they landed, but finding nothing, and relying upon the panic which the destruction of the fleet had inspired, they sailed boldly into the harbor which, partly encircled by the shore line, might be called the heart of the city.<sup>1</sup> As the pirate captain had only four small galleys, he did not attempt a landing, but simply sailed at will about the harbor which Carthaginian and Roman fleets had tried in vain to force,<sup>2</sup> and which had witnessed the shattering of the naval power of Athens.<sup>3</sup> Meanwhile the praetor of Rome and the citizens of Syracuse watched helplessly from the shore. The pirate insultingly scattered about the palm-roots, his only booty from the Roman fleet.<sup>4</sup> The men on the shore could only grit their teeth in impotent rage. Having exhausted the possibilities of the situation, and tiring of his pastime, the freebooter finally withdrew.<sup>5</sup>

Goaded to desperation by defeat and disgrace, the provincials were not slow to declare openly that the cause was not far to seek, that it could only be the reduction of the fleet's efficiency due to the governor's avarice, indifference, and debauchery. If these were hitherto only suspicions, they were now made certainties by the testimony of the four commanders who had also returned to Syracuse.<sup>6</sup> For a whole day they were questioned in the forum and the assembly about the loss of the fleet, which they assigned to three causes,—the discharge of the rowers, the weakness resulting from hunger in the case of those who remained, the cowardice and desertion of Cleomenes. Verres had long since seen that a prosecution at Rome was inevitable, and

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<sup>1</sup> V, 96.

<sup>2</sup> V, 97.

<sup>3</sup> V, 98. Cicero states the number of Athenian ships alone as 300, a great exaggeration. cf. Thucydides VI, 43 for the details of the Athenian expedition against Syracuse.

<sup>4</sup> V, 99.

<sup>5</sup> V, 100.

<sup>6</sup> V, 101.

he now realized that the captains would prove to be dangerous witnesses in such an action. Summoning them before him, he prevailed upon them by some means, to repudiate their statements made before the people. Each made affidavit before witnesses that his crew had not been reduced to a state of inefficiency by discharge of its members.<sup>1</sup> But it was too late for such precautions to succeed. The people were too thoroughly convinced of the actual state of affairs, and there still remained the threatening possibility of the oral testimony of these men in the trial which was already a certainty. Only death would seal the captains' lips.<sup>2</sup> The governor's realization of that fact fixed their doom. But any accusation of treason against them involved Cleomenes also.<sup>3</sup> Nice's *liaison* with the praetor proved her husband's salvation. He was informed by Verres that he was not to be harmed, but was fully acquainted with the plot against his former subordinates.<sup>4</sup> To this he gave assent, but reminded the governor that it would be necessary—at least for the present—to spare Phalacrus, the Centuripine captain, who of course had commanded the ship in which Cleomenes escaped.<sup>5</sup> After public feeling had subsided, he too might be effectually disposed of.

The cold-blooded arrangement having been consummated, Verres summoned his victims to the forum and placed them in irons, fifteen days after the burning of the fleet.<sup>6</sup> Popular astonishment was followed by an outcry of resentment when the charge was stated as treason, the betrayal of the fleet to the pirates. On the praetor's tribunal, whispering advice, sat Cleomenes.<sup>7</sup> The useful Naevius Turpio<sup>8</sup> was produced as

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<sup>1</sup> V, 102.

<sup>2</sup> V, 103.

<sup>3</sup> V, 104.

<sup>4</sup> V, 105.

<sup>5</sup> From V, 88 we have seen that this ship was not short-handed, so that not even the charge of illegally dismissing sailors could be brought against Phalacrus.

<sup>6</sup> V, 106.

<sup>7</sup> V, 107.

<sup>8</sup> See p. 77.

formal accuser. In alarm the parents and relatives of the prisoners hastened to the capital to intercede in their behalf.<sup>1</sup> The aged Dexo of Tyndaris, at whose house the praetor had been entertained, pleaded for his son Aristeus;<sup>2</sup> another father, Eubulida of Herbita, for his.<sup>3</sup> But of course it was impossible for them to make any adequate defense without implicating Cleomenes, and that Verres would not permit. One of the defendants, Heraclius of Segesta, showed that when his ship left Syracuse he had been on sick leave because of an affection of his eyes, that he had remained there on furlough, had not accompanied the fleet, and could not, therefore, be included in the charge.<sup>4</sup> Another, Furius of Heraclea, seeing certain death facing him, set down his case in writing, giving exact figures for the number of men originally in his crew, those who had been discharged, and how much each had paid the governor. He also gave similar information about the other ships.<sup>5</sup> For these statements, made orally, he had been scourged across the eyes. This document, written by the young man in the presence of his weeping mother, and on the brink of the grave, formed a most moving and effective piece of evidence, and the prosecutor made the most of it.<sup>6</sup>

The captains were all condemned to death<sup>7</sup> on four counts:<sup>8</sup> (1) betrayal of the fleet to the enemy; (2) desertion; (3) cowardice; (4) discharging the sailors. Phalacrus of Centuripae, because he had been with Cleomenes, was spared, but was blackmailed by Timarchides into paying a bribe that he might

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<sup>1</sup> V, 108.

<sup>2</sup> V, 109.

<sup>3</sup> V, 110.

<sup>4</sup> V, 111. His subsequent execution was therefore a purely arbitrary act on the governor's part.

<sup>5</sup> V, 112.

<sup>6</sup> V, 113.

<sup>7</sup> V, 114.

<sup>8</sup> See Halm<sup>12</sup>, p. 205, n. 19; Zielinski, *Philologus* LII, p. 279 ff. The latter points out that the first three counts are really one, expanded for effect.

escape scourging.<sup>1</sup> The condemned men were consigned to prison to await execution the next day, their parents were refused permission to visit them,<sup>2</sup> and were forced to spend the night on the threshold of the prison, denied even a parting embrace. The governor's executioner, the lictor Sextius, drove profitable bargains with the parents, exacting so much money for the promise to dispatch a son with a single blow of the axe, saving him the agony of a second blow.<sup>3</sup> Burial permits were also sold before the executions. Onasus of Segesta, as he afterwards testified, paid money to Timarchides, for the right to the body of his son, Heraclius.<sup>4</sup> In the morning the young men were brought out, tied to the stake, and the axe of Sextius ended their lives.<sup>5</sup> But the damaging facts, the knowledge of which proved their undoing, could not be hidden. Many of the kinsmen of the men testified against the governor at Rome. Phylarchus of Haluntium, ransomed from the pirates, who had thus saved his life by taking him prisoner, and Phalacrus the Centuripine, also served as witnesses in behalf of their former comrades and against the man responsible for the death of those comrades.<sup>6</sup> The Cities of Netum, Amestratus, Herbita, Henna, Agyrium, and Tyndaris all gave public testimony in the matter.<sup>7</sup> Even Cleomenes was forced to admit that he landed at Pachynum in order to supplement his crews with men from the garrison at that place.<sup>8</sup> In a most eloquent peroration<sup>9</sup> Cicero sums up the case and concludes his treatment of the *Crimen Navale*.<sup>10</sup>

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<sup>1</sup> V, 116.

<sup>2</sup> V, 117.

<sup>3</sup> V, 118.

<sup>4</sup> V, 120.

<sup>5</sup> V, 121.

<sup>6</sup> V, 122.

<sup>7</sup> V, 133.

<sup>8</sup> Ibid.

<sup>9</sup> V, 123-138.

<sup>10</sup> Zielinski (Philologus LII, pp. 276-282) presents a careful and valuable analysis of the *Crimen Navale*. He points out that Cicero's chief accusation against Verres was that he had had innocent men condemned in order to

*C—The Punishments.*

But the killing of provincials was not the governor's outstanding offense. In the eyes of Roman citizens nothing could exceed in heinousness the putting to death of their fellow citizens.

destroy the proofs of his own guilt. Furthermore it is shown that the point on which the whole arraignment of the governor depends is whether the captains had themselves weakened the fleet by discharging sailors, to their own profit, or whether it was done entirely at the command of Verres, and to his profit. The indirect proof that Verres was responsible is the fact that by his own order he was in charge of the sums paid out by the cities for the maintenance of the fleet. The testimony of the cities (mentioned in V, 133) was probably to that effect. The direct proof is that no one but Verres and the captains could have been in a position to know the truth, and that fact furnishes an adequate motive for putting the men out of the way.

Holm (G. S. III, 409) suggests the possibility of raising a question as to the undivided responsibility of Verres. "The anger of the Syracusans might be imputed to the tendency of many southern peoples to excuse a general for a disaster in war and to heap the blame upon the government." But he adduces no examples of such a "tendency," if it exists, nor does he attempt to support his suggestion by any new interpretation of Cicero's evidence.

As a matter of fact, the charge must be regarded as proved. Allowing for all possible rhetorical exaggeration—and that there is much, no one would deny—the *Crimen Navale* shows Cicero at his best as a logical and forceful prosecutor. The presentation of the evidence is all that could be desired, and its cumulative weight is crushing. The case is, all in all, one of the most clearly stated and conclusively proved of those which Cicero treats in the *Verrines*.

The one element in his brief which is not wholly convincing, is his effort (V, 89) to depict the captains, when deserted by Cleomenes, as not sharing altogether in the cowardice of their craven commander and as exhibiting some willingness to fight. Yet the incontestable fact remains that they did not fight and that they did run away, even in face of the fact that their force was still superior to that of the enemy. Six ships yet remained to them, while the pirates had only four, (V, 97) and those were small galleys. It must be admitted that the inadequate manning of the ships would tend to offset the advantage in numbers, rendering the units of the fleet particularly unwieldy in comparison with the light, easily manoeuvred piratical galleys. But after all, the captains' mental attitude in the crisis had little to do with the facts. They fled, and Cicero's attempt to acquit them entirely of the charge of cowardice and desertion is not an unqualified success. But as Zielinski shows, the chief issue of the case was the question as to who was responsible for the shortage of men in the fleet, and that is in no wise affected by the minor question discussed above.

Therefore the prosecutor, always with an eye for effect, reserves until the end this cap-stone in the structure of enormity which he has built up from the evidence, and so forceful is his presentation of the final charge that its content has given the name to the whole oration.<sup>1</sup> It is bringing the matter home to his public with a vengeance when he boldly states that Verres openly employed against Roman citizens punishments—the scourge, torture, and the cross—which had been instituted only for convicted slaves.<sup>2</sup> A typical case was that of C. Servilius, a *negotiator* or trader of Panormus,<sup>3</sup> who had aroused the governor's resentment by some rather free criticisms of his iniquities.<sup>4</sup> In order to force the man to appear at Lilybaeum, where Verres then was, instead of at Panormus where, under the *Lex Rupilia*, he should have appeared, the governor had a charge brought against him in the name of one of the *servi Venerii*, or slaves of Venus Erycina, the accusation probably being stated as fraudulent seizure of property belonging to the goddess. As jurisdiction in such cases was vested in the quaestor of Lilybaeum,<sup>5</sup> the change of venue was formally legal. Servilius accepted the service of the summons and gave bail (*vadimonium*) for his appearance. At the appointed time he appeared and the trial was begun, in the course of which the slave of Venus formally brought in his charge that Servilius had enriched himself by robbing the goddess. Upon the plea of not guilty by the defendant, Verres ordered him to enter into a *sponsio*<sup>6</sup> or legal wager, (according to the terms of which he agreed to forfeit a specified sum<sup>7</sup>) though not, of course, with the *servus* who could

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<sup>1</sup> *De Suppliciis*.

<sup>2</sup> V, 139.

<sup>3</sup> V, 140.

<sup>4</sup> V, 141.

<sup>5</sup> Cf. the case of Dio of Halaesa, p. 33, n. 4.

<sup>6</sup> The legal form of such a *sponsio* in this case would be (Laming, Verr. V, p. 116), Plaintiff: "*Si furtis quaestum facis, mihi dare nummos spondes?*" Defendant: "*Spondeo*."

<sup>7</sup> The amount is uncertain here. The best Mss. have the corrupt reading *sponsionem militum nummum facere*. The common reading *sponsionem II milium nummum* rests on very insufficient authority. The most pro-



not legally appear as plaintiff in a capital case against a Roman citizen. As no one else was to be found, Verres pressed one of his lictors into service as the other party to the *sponsio*, and declared that he would appoint *recuperatores* from his own retinue.<sup>1</sup> Servilius naturally refused to be a party to the *sponsio* under such conditions, thereby laying himself open to the charge of *contumacia* or contempt. He was immediately surrounded by six lictors and cruelly beaten, Sextius adding to his torture by scourging him across the eyes.<sup>2</sup> They continued to beat him, covered with blood and lying half dead upon the ground, but could not force from his lips the word, "*Spondeo*." Shortly afterward he died. In order to give some legal color to the charge which had been brought against him,<sup>3</sup> Verres, out of his confiscated estate, erected a silver Cupid in the shrine of Venus.<sup>4</sup>

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bable conjecture would be *mille nummum*, but 1,000 sesterces would be a very small amount. Mommsen suggests (Excursus on V, 141, Halm<sup>12</sup> p. 251) that the sums wagered in *sponsiones* were often purely nominal and that they were not even paid in cases where the only object was to establish the truth or falsity of a statement. (Cf. the modern practice of naming \$1.00 as the consideration in real estate transactions which are actually gifts or exchanges.)

<sup>1</sup> Another violation of the *Lex Rupilia*, according to which (II, 32) the judges should have been appointed from the Roman citizens of the *conventus* of Lilybaeum.

<sup>2</sup> V, 142.

<sup>3</sup> "In such a *sponsio* all the forms of law might be observed, but its employment was strictly extra-judicial."—Greenidge, p. 54, n 1.

<sup>4</sup> The case of Servilius has been fully treated by Mommsen (1852, in an appendix to Halm's edition, appearing in Halm,<sup>12</sup> pp. 249-251) and by Zielinski (Philologus LII—1893—pp. 286-294).

Mommsen observes that the *sponsio* was not the usual method of deciding a case brought through *vadimonium*, and cites first, the fact that Cicero says, in introducing the *sponsio*, "*cum ageret nemo*;" secondly, the fact that the *servus Venerius* to whom the *vadimonium* was promised, was not identical with the lictor who was made a party to the *sponsio*. He reasons that after Servilius appeared, the case was found to have insufficient legal grounds to warrant its continuance, and interprets *cum ageret nemo* as indicating the non-appearance of the *servus* as plaintiff. The case against Servilius was thus automatically dropped from the docket. But Verres found a new charge—that of "enriching himself by theft"—which was

As has already appeared,<sup>1</sup> Verres made a new use of the famous Syracusan *lautumiae* or stone-quarries, established as a state prison by the tyrant Dionysius,<sup>2</sup> (B.C. 406-368), originally in-

wholly apart from, and had nothing to do with, the former charge brought in behalf of Venus Erycina, and had the lictor challenge the defendant to a *sponsio* on the formula, NI FVRTIS QVAESTVM FACERET. The *sponsio* thus is absolutely independent of the *vadimonium*, and the two actions brought against Servilius have, formally at least, nothing in common. The first one failed and it was necessary to trump up a new charge. In fact, the charge of the *servus Venerius* may have been for the sole purpose of forcing Servilius to appear at Lilybaeum rather than at his home city, and, that end accomplished, there was no serious intention on the part of the praetor to carry that case further. Mommsen further believes that the scourging did elicit from Servilius his consent to the *sponsio*, interpreting *ut aliquando spondere se diceret* as a *result* clause, and as stating a fact of occurrence.

Zielinski agrees that the chief motive in the charge brought by the *servus* was simply a change of venue to Lilybaeum. But he argues that the *sponsio* was merely the second stage of the original trial, begun with *vadimonium*; i.e. that there were not two separate actions against Servilius, but only one. By interpreting *Lilybaeum venit* as meaning that both parties (the *servus* and Servilius) to the original suit appeared at the first pleading, he disposes of Mommsen's theory that the original charge was dropped because of the non-appearance of the plaintiff. It is then necessary to make a different interpretation of *cum ageret nemo*. This means simply that the *servus* was not qualified to proceed in a *sponsio* with a Roman citizen (cf. Mommsen, *Staatsrecht* I, 185), and the clause means, "When no one was to be found to serve as plaintiff," thus making it necessary to draft the lictor. The fact that the *sponsio* had a direct formal dependence upon the *vadimonium* is shown by the concluding words of the chapter, *de bonis illius in aede Veneris argenteum Cupidinem posuit*. If the formula of the *sponsio* had nothing to do with the action brought in behalf of the goddess by her *servus*, why did Verres take the trouble to give the whole matter a cloak of legality by dedicating a part of the dead man's property to the deity it was alleged he had injured? Zielinski further interprets *ut aliquando spondere se diceret* as a *purpose* clause, giving the motive of the scourging, but he does not believe that Servilius ever said "*Spondeo*." If he had said it, the *servus* could never have claimed more than the amount of the *sponsio*, which was probably insignificant. As he did not, the *servus*, as the original plaintiff, could claim a much larger share of the man's estate for

<sup>1</sup> See p. 146.

<sup>2</sup> V, 143. The quarries were entirely open to the sky, exposing the prisoners to all the vicissitudes of the weather. Thucydides (VII, 87) describes the hardships of the Athenians confined there in B.C. 413. Cf. Plautus, *Captivi* 721-726, for a reference to the use of quarries as prisons.

tended, says Cicero, for foreign malefactors, pirates, and enemies.<sup>1</sup> During Verres's praetorship Roman citizens were indiscriminately confined there, as they happened to give offense to the governor, or as valuable possessions furnished him a motive for desiring their disappearance. The rich cargoes carried by merchantmen from the ports of Asia, Syria, Tyre, and Alexandria were seized and confiscated upon their arrival at Syracuse, and their crews were speedily incarcerated in the convenient quarries.<sup>2</sup> It was easy to accuse wealthy new-comers of being renegade Sertorians fleeing from Spain, no matter what their actual port of departure had been, and under threat of such accusations Verres came into possession of great quantities of Tyrian purple, incense, perfumes, linen, cloth, jewels, pearls, Greek wines, Asiatic slaves, as well as sums of money.<sup>3</sup> The false security purchased by such means was short-lived, for after

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the goddess. Thus, by the refusal of Servilius, Verres was cheated out of that part of the estate which accrued to Venus, and which would otherwise have come to him.

Both views have their weaknesses, those of Mommsen's view being already pointed out by Zielinski. I have followed the latter, though his interpretation of *Lilybaeum venit* and *cum ageret nemo* seem somewhat strained. Yet he cites several similar usages by Cicero which would seem to make the interpretation possible. The clinching point in his argument is the demonstrated necessity of explaining the whole case on the basis of some connection between the charge involved in the *vadimonium* and that in the *sponsio*. On no other basis is it in the slightest degree possible to explain the offering to Venus with which Verres closed the case. It is an action which would be entirely unnecessary if the first charge had been dropped and an entirely new one substituted. Furthermore it would not in any way add a legal coloring to the outcome of the affair. Thus no motive remains for a most extraordinary act, which in the light of Zielinski's interpretation appears as a perfectly natural sequel to the praetor's conduct of the case. It is exactly analogous to his action in the case of Sthenius (II, 93), *ob eam rem HS D Veneri Erycinae de Stheni bonis se exacturum*; (II, 115) *Hoc de homine ac de huius bonis etiam in Eryco monte monumentum tuorum (furtorum), flagitiorum, crudelitatisque posuisti, in quo Stheni Thermitani nomen adscriptum est. Vidi argenteum Cupidinem cum lampade.*

<sup>1</sup> V, 144.

<sup>2</sup> V, 145.

<sup>3</sup> V, 146.

thus discovering the character of the cargoes, he often ordered the seizure of the whole, together with the ship, on the pretext that such valuables could only have been obtained through collusion with the pirates. The crews, as usual, were led off to prison. As a consequence of such practices the quarries became full to overflowing and it was necessary to reduce the number of prisoners. Many were strangled, among them being numbers of Roman citizens.<sup>1</sup> The plea, "*Civis Romanus sum*," usually a potent protection against violence wherever the Roman eagles had gone, availed nothing in these cases. Cicero had as evidence the prison register, showing names, dates of commitment and death, and manner of execution. Against the names appeared the sinister entry, *ἐδικαιώθησαν*.<sup>2</sup> To the claim that they were Sertorians and therefore public enemies,<sup>3</sup> the prosecutor replies that even so they were not subject to the death penalty, and cites the general amnesty granted the followers of Sertorius by the senate and people,<sup>4</sup> which was duly observed by Pompey.<sup>5</sup> Cicero was also prepared to produce the partners and employers of many of the governor's victims to testify that the latter were secretly strangled and some even publicly beheaded.<sup>6</sup> Among these victims was one P. Granius, whose ship and cargo had been seized and whose freedmen had been put to death. L. Flavius, a Roman *eques* was prepared to testify to the public execution of L. Herennius, a banker of Leptis in Africa, whose citizenship, as well as his innocence of the charge of Sertorian sympathies, was attested by a large number of Romans at

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<sup>1</sup> V, 147.

<sup>2</sup> V, 148. Literally, "they were punished," which, according to Cicero, was Sicilian euphemistic usage for "they were executed." This meaning he says, Verres was too careless to notice and too ignorant to understand, if he had noticed it. On Verres's alleged ignorance of Greek, cf. p. 126.

<sup>3</sup> V, 151.

<sup>4</sup> V, 152.

<sup>5</sup> V, 153. Drumann (V, p. 303, n. 97) criticizes the example as ill-chosen, remarking that none of Sulla's generals shed the blood of so many unarmed Roman prisoners.

<sup>6</sup> V, 154.

Syracuse,<sup>1</sup> among them the influential M. Annius.<sup>2</sup> The sole effect of the popular protest was to render the governor a trifle more cautious. No more Roman citizens were executed in public without first having their faces veiled,<sup>3</sup> as in the case of those forced to impersonate the pirates.<sup>4</sup>

But the outstanding case of this nature, the one to be cited most effectively as the ultra-climax of Verres's crimes, the one which seems to contain no possibility of excuse, was the case of Gavius of Consa.<sup>5</sup> This man was one of the Roman citizens consigned by the governor to the Syracusan stone-quarries,<sup>6</sup> but by some means he made good his escape to Messana. There he made a fatal mistake, for in that "*altera patria*" of the governor, the one Sicilian city which—for reasons of its own—was friendly to Verres, Gavius began to make complaint of the treatment he had suffered and to publish his intention of proceeding immediately to Rome, for the purpose of redressing his wrongs there. He was forthwith seized, taken before the Mamertine magistrates, and to cap the climax of his misfortunes, Verres appeared in Messana that same day. The governor was duly informed that the man had been arrested just as he was embarking and at the same time uttering violent threats against his persecutor. Having thanked these loyal Mamertines, so jealous for his safety, Verres abruptly ordered Gavius to be stripped and scourged in the forum.<sup>7</sup> In vain the latter pleaded his citizenship, which he offered to prove by the testimony of L. Raecius, a Roman *equus* with whom he had done military service, now engaged in business at Panormus. But it was 150 miles to Panormus, and no effort was made to summon Raecius. On the other hand, Verres accused Gavius of espionage in the

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<sup>1</sup> V, 155.

<sup>2</sup> V, 156.

<sup>3</sup> V, 157.

<sup>4</sup> See p. 146.

<sup>5</sup> V, 158. Consa was a town of the Hirpini in southern Samnium.

<sup>6</sup> V, 160.

<sup>7</sup> V, 161.

service of the fugitive-slave leaders in Italy, a charge which was supported by no testimony. The scourging proceeded, no cry of pain escaping the wretched man's lips, but between the blows was heard only the monotonous repetition of the usually potent formula, "*Civis Romanus sum.*"<sup>1</sup> Nor was it strange that he should have expected it to be potent still. For the *Lex Porcia* of B. C. 197 provided penalties for beating or killing a Roman citizen,<sup>2</sup> an enactment which was confirmed and extended by the *Lex Sempronia* of B. C. 123.<sup>3</sup> But the governor's fury was not yet sated, and the man was tortured with fire and red hot plates,<sup>4</sup> and as the climax of ignominy was condemned to a slave's death, crucifixion. There was a road leading inland from the city, the *via Pompeia*, and along this road the crosses of those condemned were usually erected.<sup>5</sup> But the governor, driven by his insane rage to the utmost refinement of cruelty, bade the Mamertines erect this cross on the shore, with the remark that the alleged Roman citizen would thus, even in his last hour, be enabled to behold Italy and to look toward his own home. The atrociousness of the deed is almost unbelievable. Yet we can only accept the facts as Cicero relates them to us. He was ready to prove upon what appears to be the most unimpeachable testimony,<sup>6</sup> that Gavius was a Roman citizen and that the events of his persecution and death were as here related. We can only believe that the governor's resentment against the man led him into a course of reprisal in which he blindly persisted, reckless of consequences and of the danger involved in them. We have seen before that Verres rarely counted the cost. "It is an outrage," says Cicero, "to bind a Roman citizen; to scourge him is a crime; to put him to death is almost murder. What shall I say of crucifying him?"<sup>7</sup>

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<sup>1</sup> V, 162.

<sup>2</sup> Livy X, 9; Cic. de Re Publica II, 31, 54; pro Rabirio 4, 12.

<sup>3</sup> V, 163. Cic. pro Rabirio, l. c.; Mommsen, III, p. 112.

<sup>4</sup> *Ardentes laminae*. Cf. Horace Epist. I, 15, 36, *lamna candente*; Juvenal Sat. XIV, 22, *uritur ardenti ferro*.

<sup>5</sup> V, 169.

<sup>6</sup> V, 164-165.

<sup>7</sup> V, 170.

The remainder of the prosecutor's speech forms the peroration of all the Verrines. In the course of it<sup>1</sup> he forcibly reminds the jury and Hortensius, Verres's advocate, that the senatorial party's tenure of the *judicium* is dependent upon the conviction of the accused in this trial.<sup>2</sup> A most effective close is contrived by a recapitulation of the sacrilegious crimes of Verres, in the form of an almost epic invocation of the offended deities—Jupiter, Juno, Minerva, Latona, Apollo, Diana, Mercury, Hercules, Castor and Pollux, Ceres and Libera,<sup>3</sup> and with the resolve of the prosecutor, if successful in the present trial, henceforth to assume the more congenial role of "defending the good rather than prosecuting the infamous."<sup>4</sup>

So ends the sordid story of those three eventful years in Sicily. It is a story of debauchery, injustice, oppression, wholesale pillage, and even of murder, but withal one which never lacks in interest. Although the governor was not given to weighing the future, he had long faced the certainty of impeachment upon leaving the island.<sup>5</sup> He made no secret of the fact that a large part of his acquired booty was to be used in the purchase of an acquittal—not an unreasonable hope in view of the extensive backing upon which he could rely among the aristocratic party, and of the former tolerance toward rapacious officialdom, against which helpless provincials had protested in vain. Though under the shadow of inevitable indictment, it was with this purpose definitely in mind that, at the end of the year 71, with his Mamertine ship loaded with the treasures of Sicily, carrying with him Tertius, the favorite of his feminine *entourage*, he set his face toward Rome.

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<sup>1</sup> V, 171-183.

<sup>2</sup> Verres, of course, had been convicted at the first hearing, but to add vividness Cicero still keeps up the fiction of a second trial, with the verdict yet hanging in the balance.

<sup>3</sup> V, 184-188.

<sup>4</sup> V, 189.

<sup>5</sup> V, 101.

## CHAPTER VII.

THE TRAIL, CONVICTION, AND EXILE, B. C. 70; DEATH, B. C. 43.

In order to understand the sequence of events of the year 70, insofar as they pertained to the trial of Verres, it will be necessary to sketch briefly the legislation of previous years and the resultant circumstances which contributed to the political situation in Rome upon Verres's return there. This situation was the culmination of ten years' misrule by the senatorial oligarchy established by Sulla. The consular elections of the year 71 had sealed the fate of that oligarchy. It only remained for the new consuls to take office, for the reaction against the Sullan constitution to be complete. The first day of January, B. C. 70, was therefore an eventful day in Roman history, for on that day the consulate was assumed by the two most powerful men of the time; the one, known for his enormous wealth, fresh from victories over Spartacus and from the successful termination of his campaign against the slave uprising, Marcus Licinius Crassus; the other, flushed with even more remarkable successes in Spain, honored on the previous day by an extraordinary triumph,<sup>1</sup> the most conspicuous figure in public life, Gnaeus Pompeius Magnus.<sup>2</sup>

The chief bulwark of the aristocratic party's strength had been its tenure of the law courts, and the domain of the *judicia* formed the principal battle ground of the parties. The result was what always happens when the judiciary is the tool of politicians, namely, unspeakable corruption of the courts, the impossibility of obtaining just verdicts, and an increasing popular demand for reform. The senatorial control of the courts had been uninterrupted from the earliest times, except for a period of about fifty years between the time of Gracchus and that of Sulla.<sup>3</sup> Gracchus, who had recognized in this control a vulnerable point of the senatorial party, had provided by his *lex judiciaria* of B. C. 122 that as a rule all *judices* should be drawn from the ranks of the

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<sup>1</sup> Pliny, N. H. VII, 26.

<sup>2</sup> Asc. in Div., p. 185 (Stangl).

<sup>3</sup> Act. I, 38.



*equites*.<sup>1</sup> The latter class was thus at one stroke placed in a position of vantage over the aristocracy, to the extent that a returning governor, accused of extortion, must have connived freely at the corrupt practices of the *equites* engaged in his province as *publicani*, in order to have any opportunity for a favorable hearing before equestrian judges.<sup>2</sup> Conditions in the courts were little improved by Gracchus's law, and the latter was the cause of continual dissension. In spite of one or two attempts to place the senators again in control, the domination of the courts by the *equites* continued until B. C. 81, when Sulla included in his program for the restoration of the senatorial oligarchy the reversal of the Gracchan regulation, and the return of the senate to its historic prerogative of the *judicium*. A provincial governor now indicted for extortion faced a jury composed exclusively of men of his own rank, senators who either had themselves been guilty of exploiting the provinces, or who might wish to enrich themselves in the future by that method.<sup>3</sup> The resulting corruption of justice, combined with the oligarchy's feeble foreign policy, its inefficient conduct of the wars against Sertorius, Spartacus, and the Mediterranean pirates, its maladministration of the provinces and general incapability, could only result in popular agitation for the restoration of judicial power to the *equites*. Thus the senatorial party found itself at the time of Verres's prosecution in a most precarious position, and of its predicament Cicero took the fullest advantage. For though now a senator, the orator had not forgotten that he was a *novus homo*; his equestrian consciousness still remained, and he did not hesitate to point out to the senatorial jury repeatedly and with all the forcefulness at his command, that their tenure of the *judicia* was hanging by a very slender thread, and that that thread was their decision of the suit against Verres.<sup>4</sup> He played very cleverly upon the class

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<sup>1</sup> Granrud, Roman Constitutional History, p. 170; Greeridge, p. 436 ff.

<sup>2</sup> III, 94.

<sup>3</sup> III, 223.

<sup>4</sup> Div. 8-10; Act. I, 1-5, 7-9, 38-40, 43-49; I, 4-6, 21-23; II, 174-175; III, 94-98; 223-226.

consciousness of his noble hearers, and the result in part shows that he had convinced them that an acquittal was too perilous to attempt.

During the early history of Roman judicial procedure we hear of no cases of *Repetundae*.<sup>1</sup> But with the spread of Roman power such cases begin to appear, and their number increases proportionately with the extension of Roman sovereignty, until in Cicero's time a returning provincial governor almost expected to be indicted upon his arrival, and many of them, as did Verres, shaped their plans with that in view. There was no lack of legislation providing penalties for exploitation of the provinces, but its enforcement by the corrupt judiciary was, of course, anything but efficient. The first enactment dealing directly with the subject<sup>2</sup> was the *Lex Porcia*<sup>3</sup> of M. Porcius Cato, B.C. 198, limiting the amount which could legally be demanded by a governor from his province for the expenses of administration. The next law was the *Lex Calpurnia* of L. Calpurnius Piso Frugi, B.C. 149. It established a *quaestio perpetua* or standing court to try defendants accused of extortion. This *quaestio* was to be presided over by the *Praetor Peregrinus*,<sup>4</sup> the *judices* being chosen from the senate and serving for one year. Only foreigners might bring an action under this law. Roman citizens might recover under an ordinary civil process. About 126 B.C. was

<sup>1</sup> Livy XLII, 1. Cases of prosecution for extortion were called *Repetundae* (*pecuniae*) because their object was the recovery of funds illegally seized from provinces or individuals. (Sigonius, de Judiciis II, 27.)

<sup>2</sup> For the following account of the laws *de Repetundis* I am indebted to these sources :

Madvig, *Verfassung und Verwaltung des Röm. Staates*, II, p. 278 ff.

Heitland & Cowie, *Divinatio and Actio Prima*, Appendix C.

Smith, *Dictionary of Greek and Roman Antiquities* II, p. 542.

Laming, *Cic. in Verrem*, Lib. V, Appendix.

Holm, *Geschichte Siciliens* III, p. 422.

Mommsen, *Römisches Strafrecht*, Chap. VII.

Granrud, *Roman Constitutional History*.

Greenidge, *Legal Procedure of Cicero's Time*, p. 428 ff.

Ciccotti, *Il Processo di Verre*, pp. 41-57.

<sup>3</sup> Livy XXXII, 27.

<sup>4</sup> Cic. de Off. II, 75; Brut. 106.

passed the *Lex Junia* of the tribune M. Junius, but of its provisions we have no knowledge. The *Lex Acilia*<sup>1</sup> of M'. Acilius Glabrio,<sup>2</sup> B.C. 123 or 122, excluded senators from sitting on the jury in cases of *Repetundae*, and provided for a special *Praetor Repetundis*. The latter was to appoint annually 450 *judices*, of whom 100 sat in each trial, the parties to the suit each choosing 100 and enjoying the right to challenge 50 of those chosen by the opposition. If two-thirds of the court returned a verdict of *non liquet*, one new trial (*ampliatio*)<sup>3</sup> was granted. The penalty was fixed at double the amount extorted or corruptly received. The next enactment was the *Lex Servilia* of C. Servilius Glaucia,<sup>4</sup> about 111 B.C. It abolished the *ampliatio* allowed by the *Lex Acilia*, but provided for an adjournment of one day (*comperendinatio*), which thus divided a trial into two parts, *actio prima* and *actio secunda*. The *Lex Cornelia* of Sulla, B.C. 81, under which the indictment was brought against Verres, was based chiefly upon the *Lex Servilia*. This law transferred jurisdiction to the senators and may have increased the pecuniary penalty to two and one half times the amount alleged to have been extorted.<sup>5</sup> It also provided banishment (*aquae et ignis interdictio*).<sup>6</sup> The jury was chosen by lot (*sortitio*),<sup>7</sup> and the defendant, if not a senator, could not challenge more than three *judices*.<sup>8</sup> The whole body of *judices* was divided into a number of *decuriae*, small bodies regularly numbered,<sup>9</sup> each one being assigned to a single case according to its precedence on the list, and from the *decuria* so assigned, the jury was chosen.

It will be seen from the foregoing that the trial of Verres possesses a considerable political interest aside from its purely legal

<sup>1</sup> Act. I, 51 ; I, 26. The reconstructed text appears in Bruns, Fontes<sup>7</sup>, p. 53 ff.

<sup>2</sup> See Pauly-Wissowa I, 256.

<sup>3</sup> I, 26.

<sup>4</sup> Ibid.

<sup>5</sup> Cf. Div. 19 and Act. I, 56.

<sup>6</sup> II, 76.

<sup>7</sup> Act. I, 16.

<sup>8</sup> II, 77. The *Lex Cornelia* remained in force till the *Lex Julia* of B.C. 59, which abolished the penalty of banishment and increased the fine to four-fold. (Cic. pro Sext. 135 ; pro Rab. 8, 9.)

<sup>9</sup> II, 79.

aspect. It was a case of the people, and especially the provincials, against the already tottering aristocratic oligarchy, a case which offered to a successful prosecutor a most extraordinary opportunity for the acquiring of a reputation. And yet it was an opportunity beset with difficulties. The senatorial party, goaded to desperation by its impending fall, was prepared for extreme measures. If Verres could by any possible means be acquitted, it might be that the Sullan constitution could yet be saved and its advantages conserved for another generation of aristocrats. It was a situation with a challenge, and the ambitious orator accepted the challenge with his eyes open. Hardly had Verres left Sicily when representatives of the plundered cities appeared in Rome for the purpose of bringing an action *de Repetundis* against their former governor. They assembled in crowds before the doors of the Marcelli, patrons of the Sicilians, they appealed to the consuls-elect,<sup>1</sup> and by joint resolution of all the deputations, they placed their case in the hands of Cicero.<sup>2</sup> Of the important cities in the province, only two were not represented among the plaintiffs—Syracuse, the praetor's residence, and Messana, the storehouse of his plunder, both of which towns had to some extent benefited by the governor's extortions.<sup>3</sup> Aside from the fact that Cicero was already possessed of some considerable reputation as a pleader, the unanimity of his choice by the Sicilians is to be explained by the fact that he was personally known to them as an upright and able administrator. In the year 75 B. C. Cicero had been quaestor of Lilybaeum under the praetor Sex. Peducaeus,<sup>4</sup> during which time he had won great favor with the provincials, and at his departure had assured them of his willingness to serve them in any future exigency. Upon this promise, made four years previously, they now relied to gain his consent to appear for the prosecution. Sicilian governors had been indicted before this, but never before

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<sup>1</sup> III, 45.

<sup>2</sup> IV, 138. Cf. II, 8, 10, 155.

<sup>3</sup> II, 114; IV, 15, 17, 138; V, 57.

<sup>4</sup> Ps. Ascon. in Div., p. 185 (Stangl); Div. 2, 3, 11, 20.

had the indictment been brought directly by the provincials.<sup>1</sup> It was truly a "*cause célèbre*."<sup>2</sup> With some show of reluctance at laying down his chosen role of advocate and assuming the less agreeable one of prosecutor, Cicero allowed himself to be persuaded to undertake the task.

There can be little doubt that another factor which weighed heavily in bringing about the orator's decision was the knowledge that here would be an opportunity to match his legal and oratorical skill against that of the great Quintus Hortensius Hortalus,<sup>3</sup> whose reputation alone stood between Cicero and forensic supremacy. The conviction would mean the dethronement of this hitherto universally acclaimed "king of the courts."<sup>4</sup> Even before the preliminary affair of the *Divinatio*, Verres had had the foresight to engage the services of the most brilliant counsel available. In fact, for years he had been courting the favor of the advocate, and that he had been successful is seen in Cicero's allusion<sup>5</sup> to Hortensius as "that great pleader and friend" of the defendant ex-governor. We have seen how, five years before, when Hortensius as aedile was in charge of the public games, the artistic treasures of Greece and Asia Minor which Verres had brought to Rome, contributed no small share to the brilliance of the decorations.<sup>6</sup> In addition to his great talents, Hortensius was older than Cicero; he was almost sure to be one of the consuls for the following year; he was wealthy and connected with the nobility, in the service of whom he had been consistently active.<sup>7</sup> We can only wonder at the overweening confidence in his own powers and influence which would prompt him to risk his primacy at the bar in the defense of so flagrant a plunderer as Verres was commonly believed to be.

Cicero was exceedingly fortunate, in that era of judicial

<sup>1</sup> II, 8, 155; IV, 113.

<sup>2</sup> Sihler, *op. cit.*, p. 69.

<sup>3</sup> See Pauly-Wissowa VIII, 2470-2481.

<sup>4</sup> Ps. Asc. in Div., p. 185 (Stangl); *ob eloquentiam rege causarum*.

<sup>5</sup> Div. 23.

<sup>6</sup> See p. 15.

<sup>7</sup> Drumann V, p. 308.

corruption, in having the opportunity to bring his case before an honest and impartial judge. The *praetor urbanus* for the year 70 was M'. Acilius Glabrio, son of the author of the *Lex Acilia*.<sup>1</sup> Of his scrupulousness in investigation and regard for the popular will,<sup>2</sup> and of his conduct both of the preliminaries and the trial itself,<sup>3</sup> Cicero speaks in the highest terms. In a later work<sup>4</sup> he states that Glabrio's natural indolence was a defect not remedied by his thorough education at the hands of his grandfather, Scaevola. Such a tendency in the praetor's character may be in part responsible for the prosecutor's earnest plea to him beginning, "If you have inherited the vigor and energy of your father."<sup>5</sup>

In a *quaestio perpetua*, the initial act of an accuser was known as *postulatio*.<sup>6</sup> This took the form of an application to the praetor for redress against the accused. If no legal obstacle stood in the way, it was followed by the *nominis delatio*,<sup>7</sup> in which the accuser formally indicted the defendant. In the *nominis receptio*<sup>8</sup> the magistrate indicated that he had entered the case upon his docket. But the *Lex Cornelia* had not provided a public prosecutor, and therefore any citizen might offer to conduct a case before the *quaestio de Repetundis*. Thus it often happened that more than one would-be prosecutor appeared with an indictment against the same individual, and in such cases it became necessary to decide which had the better right to conduct the prosecution or, as Cicero says, to determine "whom they to whom the injury is alleged to have been done prefer to be their counsel; and secondly, whom he who is accused of having committed these injuries would least wish to be so."<sup>9</sup> The proceeding was

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<sup>1</sup> Act. I, 4, 41, 51, 52.

<sup>2</sup> Act. I, 29.

<sup>3</sup> V, 76, 163.

<sup>4</sup> Brutus, 239.

<sup>5</sup> Act. I, 52.

<sup>6</sup> Mommsen, Röm. Strafrecht, p. 382; Halm,<sup>12</sup> p. 22, n. 2.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Div. 10.

called *actio de constituendo accusatore*, or technically *divinatio*.<sup>1</sup> Such a test afforded Hortensius his first opportunity for delaying the proceedings, even furnishing a possibility of eliminating Cicero from the trial altogether. With this object in view, Verres's counsel brought forward<sup>2</sup> a certain Q. Caecilius Niger, a Sicilian, the son of a freedman,<sup>3</sup> a former quaestor of the governor.<sup>4</sup> This man advanced three reasons<sup>5</sup> why he, rather than Cicero, should be allowed to conduct the prosecution: first, he had been mistreated by Verres; he was therefore his enemy and could not be prejudiced in his favor; second, as the former quaestor of the indicted *propraetor*, he had first-hand knowledge of the alleged crimes and would therefore not be under the necessity of making a journey to Sicily for the collection of evidence; third, a Sicilian ought to appear for Sicilians. It was a clever move and it effectually blocked the further progress of the trial until a *divinatio* should decide the claims of the rival prosecutors.

The proceeding took place before a jury not required to take an oath,<sup>6</sup> and probably in the court of the *Prætor Repetundis*, though this cannot be certainly known. Neither do we know

<sup>1</sup> The exact significance of the term has been much disputed. Cf. Ps. Ascon. p. 186 (Stangl); Gellius II, 4; Quintil. III, 10, 3; VII, 4, 33; Cic. pro Planc., 46. A fair inference from the passages cited is that the name *divinatio* was applied to such a trial because there was up for consideration not a question of fact but of the future, a question which was decided not by evidence of witnesses, but as a matter of opinion, brought about by argument. The judges had to *divine*, as it were, not merely to settle a question in regard to something already accomplished. A speech delivered in such a proceeding was also called *divinatio*. Cf. Suetonius, Caes. 55.

<sup>2</sup> Div. 23.

<sup>3</sup> Ps. Ascon. p. 185 (Stangl); Plutarch, Cic. 7. According to the latter he was given to Jewish practices, hence Cicero's witticism: *quid Judæo cum verre?* It has been considered probable that his family owed its name and citizenship to some one of the Metelli (Halm,<sup>12</sup> p. 5, n. 35; Holm III, p. 428) as did Q. Caecilius Dio (II, 20). Thus Caecilius, in furthering the plans of Hortensius, would be doing a service to his patrons, the Metelli, three of whom were arrayed upon the side of Verres.

<sup>4</sup> Div. 28; Ps. Asc. p. 185 (Stangl).

<sup>5</sup> Ps. Asc., l. c.

<sup>6</sup> Ps. Asc., p. 186 (Stangl).

the number of the jury, but only that several of those who afterward sat on the case of Verres had also acted in that capacity in the *Divinatio*.<sup>1</sup> The speech of Cicero upon this occasion is the only one of its kind which has come down to us, and is commonly referred to as the *Divinatio in Q. Caecilium*. It must have been delivered about January 15th, and the whole proceeding was probably concluded in one day.<sup>2</sup>

In this speech the orator reveals his consciousness of the momentousness of the occasion for his own future, and his determination not to be cheated of the opportunity to plead the greatest case which had yet been entrusted to him. Yet so confident is his attitude, so great is the artistry with which he ridicules Caecilius, the man of straw, and reveals the latter's unfitness for a serious prosecution, especially against Hortensius, that no auditor or reader could doubt what the outcome must inevitably be. The discourse was subsequently edited and published as the first in the Verrine series. It falls naturally into three parts: first,<sup>3</sup> Cicero explains why he wishes to undertake the case; second,<sup>4</sup> he compares his own claims with those of Caecilius; third,<sup>5</sup> he weighs the grounds on which his opponent bases his qualifications as a prosecutor and contrasts them with his own.

His willingness to undertake a prosecution, in spite of his habitual practice of appearing only for the defense,<sup>6</sup> he explains by referring to his intimate relations with the provincials during his quaestorship.<sup>7</sup> Such a procedure involved a sacrifice of his personal inclinations,<sup>8</sup> but the case might still be regarded as essentially a defense of the Sicilians rather than a prosecution of

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<sup>1</sup> I, 15.

<sup>2</sup> For a discussion of the different theories of the chronology of the year 70, and an explanation of that adopted in this chapter, see Appendix.

<sup>3</sup> Div. 1-9.

<sup>4</sup> Div. 10-51.

<sup>5</sup> Div. 52-73.

<sup>6</sup> Div. 1.

<sup>7</sup> Div. 2, 3.

<sup>8</sup> Div. 4.



their oppressor.<sup>1</sup> Nor could a man of honor refuse such a duty in a time when it was becoming increasingly difficult for provincials and even citizens to obtain justice.<sup>2</sup>

The principle of selection according to which a prosecutor ought to be chosen was to consider what counsel the plaintiffs most desired, and whom the defendant was least anxious they should have.<sup>3</sup> That Cicero was desired by the Sicilians was amply attested as a matter of common knowledge, by the testimony of unimpeachable witnesses, and by the requests of eminent provincials personally present.<sup>4</sup> In the absence of a prosecutor better qualified than the speaker, such an appeal could not be resisted.<sup>5</sup> The complaint of the Sicilians should find a receptive ear at Rome, being brought under the laws *de Repetundis*, which had been framed especially for the benefit of the provinces.<sup>6</sup> Furthermore, the plaintiffs were well acquainted with both the rivals and had as adequate reasons for objecting to Caecilius as they had for depending upon Cicero.<sup>7</sup> On the other hand, Verres would decidedly prefer Caecilius, in whom he could see no quality to inspire fear. Hortensius<sup>8</sup> too, was urging the claim of his tool, inspired by the knowledge that his case was safe if the latter were prosecutor.<sup>9</sup> Nothing would stand in the way of his bribing the jury as he had done in another case.<sup>10</sup> In this

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<sup>1</sup> Div. 5.

<sup>2</sup> Div. 6-9.

<sup>3</sup> Div. 10.

<sup>4</sup> Div. 11-14. On §12, see Hartman, J. J., *Mnemosyne* XXXIX (1911) p. 447, who points out a fallacy in reasoning here. "Quasi vero idem sit Siculos a Cicerone opem non petisse et omnino a nullo oratore petisse opem!"

<sup>5</sup> Div. 15-16.

<sup>6</sup> Div. 17-19.

<sup>7</sup> Div. 20-21.

<sup>8</sup> Div. 22.

<sup>9</sup> Div. 23.

<sup>10</sup> Div. 24. In the trial of Terentius Varro, B.C. 75, Hortensius had bribed a number of the jurors, and in order to make sure of their fidelity to him had contrived to have them furnished with voting tablets covered with colored wax, those given to the rest of the jury being white. Cf. Act. I, 17, 40; V, 173; pro Cluent. 130.

connection, Cicero displays considerable personal feeling against his great rival—a proceeding which would be an unquestionable breach of taste today—intimating that the supremacy of Hortensius had been due to the fact that heretofore he had faced only immature and inferior opponents. Now he was to meet fearless men of well tested character.<sup>1</sup>

Caecilius was possessed of none of the qualities requisite in a prosecutor. Such an official should above all be a man of honor and integrity.<sup>2</sup> The fact that the Sicilians were stating that if Caecilius were prosecutor they would not appear in the trial, could only indicate that Verres and his former quaestor were tarred with the same stick.<sup>3</sup> An accuser must be trustworthy and truthful. The very situation would make it impossible for Caecilius to be so, even though he actually desired to be.<sup>4</sup> There were so many charges in which he was, to an extent, implicated with his former chief, that in accusing the latter, he would not dare to mention them.<sup>5</sup> The whole matter of extortion in connection with the grain,<sup>6</sup> perhaps the most important of all the charges, would have to be omitted entirely, because Caecilius, as Verres's quaestor, had handled the funds. He must inevitably have known of the corrupt practices which were making the governor wealthy; he had never opposed them; therefore he was an accessory.<sup>7</sup> In other matters also, the fear of exposure would seal his lips, and his "prosecution" would be the veriest farce.<sup>8</sup> Another ground for the charge of incompetence was Caecilius's lack of the education and experience necessary to a successful prosecutor.<sup>9</sup> The assembling and

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<sup>1</sup> Div. 25-26.

<sup>2</sup> Div. 27.

<sup>3</sup> Div. 28.

<sup>4</sup> Div. 29.

<sup>5</sup> Div. 30.

<sup>6</sup> See Chapter IV.

<sup>7</sup> Div. 31-33.

<sup>8</sup> Div. 34-35.

<sup>9</sup> Div. 36.

logical arrangement of his facts would be utterly beyond him.<sup>1</sup> It would be impossible for him to impress his hearers with the great importance of the case or to command their attention by expressing his ideas in forceful language. Even a man adequately prepared might well be dismayed at the difficulties of the task,<sup>2</sup> as Cicero confesses himself to be.<sup>3</sup> It was only the ignorance of Caecilius which could give him confidence, for in the hands of a man like Hortensius he would be a mere child. Utterly bewildered by the wiles of the leader of the bar, he would probably forget even the instructions with which he had been primed and the words borrowed from other men's speeches which he had committed to memory.<sup>4</sup> Cicero, on the other hand, was well versed in all the tricks of the skilled practitioner. He had a wholesome respect for the ability of Hortensius, but felt himself able to cope with it.<sup>5</sup>

Nor could Caecilius rightly claim that he had the aid of able assistant-prosecutors (*subscriptores*).<sup>6</sup> The first of these was one L. Appuleius, whom Cicero represents as a tyro in experience, if not in age.<sup>7</sup> The other was Alienus, more distinguished—if we may believe the orator—for the noise he made in speaking than for the effectiveness of his remarks.<sup>8</sup> Even men of such mediocre talents would hardly dare to put forth their best efforts for fear of outshining their chief.<sup>9</sup>

The first ground upon which Caecilius based his claim to the office of prosecutor was the allegation that he had personally been injured by Verres.<sup>10</sup> Granting this, Cicero still maintained

<sup>1</sup> Div. 37-38.

<sup>2</sup> Div. 39.

<sup>3</sup> Div., 40-43.

<sup>4</sup> Div. 44-47.

<sup>5</sup> Div. 44.

<sup>6</sup> So called because they wrote their names at the end of the charge, under that of the chief prosecutor. (Cf. Cic. ad Q. Fratr. III, 3.)

<sup>7</sup> Div. 47.

<sup>8</sup> Div. 48.

<sup>9</sup> Div. 49-50.

<sup>10</sup> Div. 52.

that the infinitely more grievous wrongs suffered by the provincials made their claim to choose a prosecutor of greater weight.<sup>1</sup> The offense for which Caecilius cherished resentment against Verres was also of a peculiar nature. A certain Agonis of Lilybaeum, a freedwoman of Venus Erycina, was known to be very rich. Some one of the captains of M. Antonius, then operating against the pirates, had abducted a number of valuable slaves from this woman. In order to express more emphatically the enormity of the theft, she declared that she herself and all her property belonged to Venus.<sup>2</sup> Caecilius, at the time quaestor of Lilybaeum, heard of the matter, summoned the woman to trial, succeeded in establishing that she had actually stated herself to be a slave, and upon the basis of that declaration seized her property, sold it and appropriated the money.<sup>3</sup> But shortly afterward Verres compelled his quaestor to disgorge the newly acquired gains, and to turn everything over to him. Then he returned to Agonis such part as he saw fit and kept the remainder.<sup>4</sup> The case was thus shown to be simply that of one thief cheating another,<sup>5</sup> a ridiculously inadequate basis upon which to press a claim to be prosecutor. Cicero also shows that afterward the two men were apparently upon the best of terms.<sup>6</sup>

Caecilius furthermore contended that his position as quaestor of Verres had afforded him extraordinary opportunities for acquiring confidential information which would prove most valuable as evidence. Cicero dwells long upon the violation of propriety which the use of such information would entail, exclaiming, "If you had received ever so many injuries from your praetor, still you would deserve greater credit by bearing them

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<sup>1</sup> Div. 53-54.

<sup>2</sup> Div. 55.

<sup>3</sup> Div. 56.

<sup>4</sup> Div. 57.

<sup>5</sup> Although in I, 15 Cicero says: *qui (Caecilius) istius quaestor fuisset et ab isto laesus inimicitias justas persequeretur*. But as Holm points out (G. S. III, p. 428), by that time Caecilius had been disposed of and no longer stood in the way.

<sup>6</sup> Div. 58.

than by avenging them !''<sup>1</sup> Precedent would show that the tie between praetor and quaestor had always been regarded as sacred, and as not to be broken without involving a violation of every principle of right.<sup>2</sup> No quaestor had ever been permitted to act as accuser against his praetor,<sup>3</sup> a statement in support of which Cicero cited three cases in which such permission was refused : L. Philo vs. C. Servilius ; M. Aurelius Scaurus vs. L. Flaccus ; Cn. Pompeius vs. T. Albucius.<sup>4</sup> Of the first two cases practically nothing further is known,<sup>5</sup> but of the third we know that T. Albucius was praetor of Sardinia, B. C. 105, and two years later was found guilty in the court of *Repetundae* on a charge brought by C. Julius Caesar Strabo, who was chosen to be prosecutor instead of Cn. Pompeius, solely on the ground that the latter had been quaestor to Albucius.<sup>6</sup>

Even under the most favorable circumstances it could hardly be expected that his resentment at a personal wrong would qualify Caecilius for the prosecution in the same degree as Cicero would be qualified by disinterested indignation against the despoiler of a province.<sup>7</sup> Private revenge as a motive suffers in comparison with the desire to see justice done the allies of the state.<sup>8</sup> The present task was such a one as the noblest Romans had ever felt a pride in undertaking, even at the risk of their own reputation.<sup>9</sup> But Caecilius had no reputation to lose, no matter how he might fail, and everything to gain, both for himself and those who controlled him. Cicero had determined to

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<sup>1</sup> Div. 60. Cicero here involves himself in hopeless inconsistency with Div. 32, where he berates Caecilius for failing to interfere in the praetor's illegal transactions in grain.

<sup>2</sup> Div. 61.

<sup>3</sup> Div. 62.

<sup>4</sup> Div. 63.

<sup>5</sup> Sternkopf (Neue Jahrb. CLV—1897—p. 570 ff.) concludes that Philo was quaestor of Servilius, B.C. 102 in Sicily, and Scaurus was quaestor of Flaccus, B.C. 95-90, in Asia.

<sup>6</sup> Cf. Cic. Tusc. V, 108 ; Brut. 177 ; de Off. II, 50.

<sup>7</sup> Div. 64.

<sup>8</sup> Div. 65-66.

<sup>9</sup> Div. 67-71.

stake everything upon this one throw. Defeat meant the loss of everything it had taken years to gain.<sup>1</sup> The Roman people would not be slow to put their own construction upon the motives of a jury which should deliberately reject the claims of an honest prosecutor in favor of a tool of the oligarchy.<sup>2</sup>

It is a remarkable speech which has come down to us, though it was probably edited and revised to some extent after its delivery, and we cannot know just how much of it was spoken in the form in which we now have it. "It is the only extant discourse of its kind, in which the speaker is obliged to eulogize himself, and yet dares not be over-arrogant. Naturally we are not compelled to believe all that Cicero says. It is masterful artistry with which throughout he makes Caecilius ridiculous by depicting the way in which Hortensius will dispose of his own helpless creature."<sup>3</sup> Doubtless there is much of exaggeration in the speech which we have no way of separating from the strict truth. There is an intense pride manifest throughout, unpleasantly prominent at times,<sup>4</sup> but toned down by an occasional note of modest self-depreciation. But it is a just pride, and Cicero's confidence in himself was borne out by the event. He was chosen prosecutor. Verres's first move in the great trial had been successfully blocked.

With Caecilius out of the way, Cicero's next proceeding, in accordance with the usual custom, was to bring his formal charge against Verres, a charge which he had already enunciated in the *Divinatio*.<sup>5</sup> He accused the governor of having extorted a sum of forty million sesterces from the Sicilians, and demanded from him, under the *Lex Cornelia*,<sup>6</sup> one hundred million sesterces in return, a penalty of two and one half times the amount extorted.<sup>7</sup> The interrupted *nominis receptio* then took place and

<sup>1</sup> Div. 72.

<sup>2</sup> Div. 73.

<sup>3</sup> Holm, G. S. III, p. 428.

<sup>4</sup> Cf. III, 2-3; V, 35-39.

<sup>5</sup> Div. 19. Cf. Act. I, 56; I, 27; II, 26.

<sup>6</sup> See p. 166.

<sup>7</sup> Thus, by the above explanation (by Halm<sup>12</sup>, p. 7, following Zumpt) there is no contradiction between the two passages (Div. 19; Act. I, 56), which

the prosecutor applied for an adjournment of 110 days<sup>1</sup> for the purpose of gathering evidence in the province. The adjournment was granted, and as there was no time to lose, Cicero probably made his preparations to leave for Sicily on the next day. His cousin, Lucius Cicero, was to accompany him, possibly in the capacity of *subscriber*.<sup>2</sup> We may conclude that all this took place on the day following the *Divinatio*, or about January 16th. On the 17th, having been provided with the necessary credentials by Glabrio,<sup>3</sup> he was ready to start.

But the opposition, defeated in the first trial of strength, was far from discouraged. Probably on the day when Cicero was to

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name different sums, the first being *sestertium miliens* and the second *quadringentiens*. This difference seems to have created considerable difficulty for some, and various attempts have been made to explain it away, the commonest explanation being that at the time of the *Divinatio* Cicero consciously exaggerated the amount in order to increase the importance of the case, and that after his researches in Sicily the evidence would only warrant the smaller amount. (Ps. Ascon. pp. 191, 223—Stangl; Thomas, Verr. V, Introd. p. 16). But the difficulty is only apparent and is simply the consequence of the failure to notice one word, *repelo*. In Div. 19 Cicero says, *abs te sestertium miliens ex lege repelo*. This is a statement of the *penalty*, not of the amount extorted, which is obtained through dividing by 2½. The result agrees exactly with the statement in Act. I, 56, *dicimus C. Verrem \* \* \* quadringentiens sestertium ex Sicilia contra leges abstulisse*.

Holm (G.S. III, p. 429) points out that the amount which Cicero accused Verres of having stolen in connection with the *frumentum in cellam* alone was in excess of 100,000,000 sesterces, and hastily concludes that that figure must be greatly exaggerated because in the trial the whole amount in question is only 40,000,000. But the difference proves absolutely nothing. Cicero's great object was to convict Verres and defeat Hortensius, and he would not be likely to make the mistake of charging more than he could conclusively prove. The exact amount was of far less importance than a speedy conviction, and it seems to me not at all improbable that the prosecutor deliberately sacrificed naming a much larger figure in order to keep his charge within limits which he could fully and easily prove. To accuse him of inconsistency here is to fail in appreciation of his ability as a lawyer, an ability supplemented by a familiarity with detail which qualified him to cope with the *finesse* of even a Hortensius.

<sup>1</sup> Ps. Ascon., arg. Act. I, p. 205 (Stangl); I, 30.

<sup>2</sup> IV, 145.

<sup>3</sup> II, 64.

leave, Hortensius played his second card. He produced a partisan of Verres who brought before Glabrio a charge against a Roman governor of the province of Macedonia, accusing him of extortion in Achaia,<sup>1</sup> and requesting an adjournment of 108 days for the collection of evidence. The significance of this figure is understood only when we realize that this adjournment would expire on the 5th day of May, whereas Cicero's adjournment of 110 days, granted the day before, would not expire until May 6th. Thus the Achaian case would have precedence on the docket of Glabrio's court, and would come to trial first, while the case against Verres would have to be postponed until the other case was decided.<sup>2</sup> A more adroit move could hardly be imagined, and we may well suppose that Cicero and his clients were disagreeably surprised and somewhat dismayed by this unexpected manoeuvre which would upset their plans to the extent of making it impossible to begin the trial in May. But there was no way of striking back and it is hardly probable that Cicero's departure for Sicily was postponed.

Accompanied by his cousin, he landed during the last of January at one of the ports in the western part of the island,<sup>3</sup> probably Lilybaeum, where he was best known. From scattered references in the speeches it is possible to gather a few details of the journey.<sup>4</sup> Visiting all the principal cities, with great in-

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<sup>1</sup> Act. I, 6; I, 30. Pseud. Asconius (p. 207, Stangl) says the accuser was named Rupilius, the defendant Oppius: another tradition gives the names as Q. Metellus Nepos and Curio. (Cf. Zielinski, *Phil.* LII, p. 256, n. 13.) Nothing is known certainly as to their identity. Schol. Gronovius (p. 331, Stangl) names the accuser as Dasianus or Piso.

<sup>2</sup> That the case whose adjournment first came to an end was given precedence on the docket, is shown by the case of M. Aemilius Scaurus, accused (B.C. 92 or 91) of extortion by Q. Servilius Caepio. Scaurus brought a counter-charge against Caepio, and by requesting a shorter adjournment succeeded in having his charge come to trial first. (Ascon. on Cic. pro Scauro, p. 22, (Stangl); Holm, *G. S.* III, p. 429).

<sup>3</sup> From II, 65 it appears that he traversed the island from west to east, as he instructed some witnesses who were to accompany him back to Rome to meet him at Messana.

<sup>4</sup> See Brückner, *Leben des Cicero*, p. 122 ff.; Drumann V, p. 313 ff.; Holm III, p. 429.



dustry he examined and copied public records and took the testimony of individuals,<sup>1</sup> even calling the farmers from their plowing<sup>2</sup> to furnish statements of what they had suffered. With few exceptions he received courteous treatment, and in many localities was enthusiastically received as the defender of the province.<sup>3</sup> In order to avoid all appearance of other than disinterested motives, he paid all his expenses from his private purse,<sup>4</sup> though as a senator of Rome he was entitled to entertainment at public expense.<sup>5</sup> During the course of his journey the prosecutor was subjected to considerable petty annoyance at the hands of Metellus, Verres's successor. In the first month of his term, Metellus had been engaged in remedying as far as possible, the destructive work of his predecessor. But simultaneously with Cicero's arrival there came to the new praetor a certain Laetilius bearing letters from Verres, upon the receipt of which Metellus "suddenly became the friend and relative" of the ex-governor,<sup>6</sup> and from then on hindered Cicero in every possible way. Some of the cities he solicited for testimony in defense of Verres. The witnesses who gave testimony against Verres were threatened;<sup>7</sup> many upon whom Cicero relied were prevented by arrest from appearing; only the credentials furnished by Glabrio made it possible to procure as many witnesses as he did. The two quaestors of Verres were still in the island and they, aided by their successors, ably supplemented the new praetor's efforts to increase for Cicero the difficulty of securing evidence.<sup>8</sup> But the provincials were too much aroused to be cheated out of their opportunity for redress, and we may suspect that Cicero was not greatly disturbed by the efforts to thwart him. At Heraclea and elsewhere he was met by the mothers and children of the

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<sup>1</sup> Act. I, 6; I, 16.

<sup>2</sup> Cic. pro Scauro, 25.

<sup>3</sup> I, 16<sup>c</sup>.

<sup>4</sup> Ibid.

<sup>5</sup> IV, 25.

<sup>6</sup> II, 64, 138.

<sup>7</sup> II, 65; III, 122.

<sup>8</sup> II, 11, 12.

men recently executed by Verres, and hailed by them as a savior, while the former governor was execrated as a murderer.<sup>1</sup> At Henna he was escorted into the city by the priests of Ceres and a great concourse of citizens, bewailing the spoliation of their temple and the desecration of their deity.<sup>2</sup> At Syracuse, where Cicero expected little consideration because that city had not joined the others in requesting him to prosecute Verres, he was surprised to be informed that the participation of the Syracusans in a *laudatio* of the governor had been due to coercion.<sup>3</sup> The Syracusans afforded the prosecutor every facility for collecting evidence, made L. Cicero a *hospes* of the state, and rescinded the decree ordering the *laudatio*. Metellus forthwith adjourned the senate and accused Cicero of unseemly conduct, in that he had spoken in Greek before the senate of a Greek city. After considerable difficulty, the prosecutor succeeded in obtaining a copy of the senate's decree which he later presented as evidence. The greater detail<sup>4</sup> with which Cicero speaks of his experience at Syracuse was, of course, employed to offset the fact that representatives of the capital city had not been among those who chose him to conduct the case. At Messana he was not so fortunate. The city did not even offer him the public hospitality due his rank,<sup>5</sup> a slight which was partially responsible for his bitter arraignment of the Mamertines later on.

In spite of all obstacles Cicero succeeded in concluding his labors at the end of fifty days,<sup>6</sup> a marvellous achievement for those times, and one in which he took a just pride. His return journey was not without annoyance and even danger at the hands of pirates, remnants of the slave armies, and emissaries of Verres. Sailing from Messana, he landed at Vibo in Bruttium, and from there took passage in a small ship for Velia in Lucania,<sup>6</sup> reaching Rome safely about March 8th. The cause of his

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<sup>1</sup> V, 129.

<sup>2</sup> IV, 110.

<sup>3</sup> IV, 136-149.

<sup>4</sup> IV, 25.

<sup>5</sup> Ps. Ascon. arg. Act. I, p. 205 (Stangl); Act. I, 6.

<sup>6</sup> Ps. Ascon., l. c.; II, 99.

haste we can only conjecture. We may conclude, however, from his statement that he considered it necessary to be in Rome on a certain day<sup>1</sup> in order to prevent the case of Verres from being dropped from the docket, that he feared the machinations of the defense in his absence, and that possibly Hortensius had been successful in having some terminal day set upon which Cicero must appear, even though it was in the middle of the adjournment granted him. The remainder of the time until May was thus left free for the working up into a brief of the vast store of material he had gathered in the province and for the promotion of his candidacy for the office of aedile, which was to be voted upon in the July elections. Shortly after his return from Sicily, probably about the middle of March, the opposition showed the first sign of panic. Verres attempted to bribe Cicero.<sup>2</sup> Galled by his failure to corrupt the man of whom his fear was daily increasing, he and his friends spread the report that the prosecutor had accepted a large sum from them, in return for which he had promised that the prosecution would be only a sham. The partial purpose of this report was to intimidate the Sicilian witnesses who had come to Rome prepared to testify.<sup>3</sup> But they had confidence in the integrity of the man to whom they had entrusted their case, still holding in mind his excellent record at Lilybaeum. Thus the canard reacted upon the heads of the would-be bribers.

On May 5th the adjournment granted to the prosecutor in the Achaian case expired and that case was called for trial. Cicero intimates that the prosecutor in this case never went as far as Brundisium in his quest for evidence.<sup>4</sup> But at any rate he secured enough material to warrant him in proceeding with the trial, and to bring about his success in drawing out that trial through the greater part of May, June, and July.<sup>5</sup> On May 6th,

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<sup>1</sup> *ad diem* (II, 99). For another interpretation of this passage, see Appendix.

<sup>2</sup> I, 19.

<sup>3</sup> I, 17.

<sup>4</sup> Act, I, 6.

<sup>5</sup> I, 30. *Menses mihi tres cum eripuissetis ad agendum maxime appositos.*

the day before the Achaian trial began, Cicero's adjournment of 110 days expired. He would therefore have been summoned before the court and informed that the case against Verres was further postponed until a verdict should be returned in the Achaian case, which was exactly what Hortensius had counted upon as a result of his *coup* of January 17th.

The jury for the trial of Verres was probably empanelled some time during the progress of the Achaian case, in order to expedite proceedings upon the decision of that case. The *sortitio*, or choosing by lot of the jurors from the senators of the *decuria* assigned to the case under the *Lex Cornelia*,<sup>1</sup> may well have occurred as early as June 1st. Under the law a defendant or prosecutor ranking lower than a senator could challenge only three *judices*. A senator could apparently challenge twice that number. Perhaps thirty days intervened between the *sortitio* and the *rejectio judicum*. Upon the latter occasion Verres took full advantage of his senatorial rank and challenged six jurors, as follows: Sextus Peducaeus,<sup>2</sup> the ex-governor of Sicily under whom Cicero had served as quaestor five years before; Q. Considius,<sup>3</sup> mentioned by Plutarch<sup>4</sup> as an able man; Q. Junius,<sup>5</sup> possibly a relative of the young Junius whom Verres had robbed during the city praetorship; <sup>6</sup> C. Cassius, ex-consul, whose wife Verres had cheated; <sup>7</sup> P. Servius; <sup>8</sup> P. Sulpicius Galba.<sup>9</sup> We have the name of only one juror challenged by Cicero, M. Lucretius.<sup>10</sup> The names which have come down to us of the *judices* who survived the *rejectio*, are as follows:<sup>11</sup> M. Caesonius,<sup>12</sup> Q.

<sup>1</sup> See p. 166.

<sup>2</sup> I, 18.

<sup>3</sup> Ibid.

<sup>4</sup> Plut. Caesar, 14.

<sup>5</sup> I, 18.

<sup>6</sup> See p. 22 ff.

<sup>7</sup> III, 97.

<sup>8</sup> V, 114.

<sup>9</sup> I, 18.

<sup>10</sup> Ibid.

<sup>11</sup> Drumann V, p. 317 ff.; Holm III, p. 429; Ciccotti, pp. 164-167.

<sup>12</sup> Act. I, 29. Known for his prosecution of Cluentius.

Manlius,<sup>1</sup> Q. Cornificius,<sup>2</sup> P. Sulpicius,<sup>3</sup> M. Crepereius,<sup>4</sup> L. Cassius,<sup>5</sup> Cn. Tromellius,<sup>6</sup> M. Metellus,<sup>7</sup> Q. Lutatius Catulus,<sup>8</sup> P. Servilius Isauricus,<sup>9</sup> Q. Titinius,<sup>10</sup> C. Marcellus,<sup>11</sup> L. Octavius Balbus.<sup>12</sup>

The personnel of the jury thus empanelled, consisting of the thirteen above and about as many more whose names are unknown, made impossible any effective use of bribery by the defense, a device in which Verres had placed his trust up to the day of the *rejectio judicum*. Immediately upon his return from the province he "had endeavored to get rid of this prosecution by the lavish use of money" (evidently a reference to the *Divinatio*). In the *sortitio* good fortune had been with Cicero in that the majority of the names drawn were those of incorruptible men, and in the *rejectio* the prosecutor had made such judicious use of his prerogative of challenging that the whole project of bribery was abandoned.<sup>13</sup> The names of the *judices* chosen were commonly known, and there seemed to be no opportunity for Hortensius's favorite trick of marked ballots.<sup>14</sup> Evidently Verres had never doubted that his plunder would be efficacious in purchasing jurors' votes. Cicero quotes him as declaring openly in Sicily that he had a "powerful friend,"<sup>15</sup> in confidence in whom he was plundering the province; that he

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<sup>1</sup> Act. I, 29.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Act. I, 29. Praetor de Repetundis, B. C. 69.

<sup>8</sup> IV, 70. Consul B. C. 78; was in charge of the repairs on the temple of Jupiter Capitolinus. Died B. C. 61.

<sup>9</sup> I, 56. Consul B. C. 79; gained military glory against the pirates. Died B. C. 44.

<sup>10</sup> I, 128.

<sup>11</sup> Div. 13; IV, 90. Proprætor of Sicily, B. C. 79.

<sup>12</sup> II, 31. Cf. Kübler, Phil. LIV, p. 466, note.

<sup>13</sup> Act. I, 16; I, 20.

<sup>14</sup> Act. I, 17.

<sup>15</sup> Evidently Hortensius.

was not seeking money for himself alone, but would be contented to keep the gains of only one of the three years, reserving those of the second for his patrons and defenders, and those of the third, the most richly productive of all, for the judges.<sup>1</sup> Of this frank statement Cicero made effective use upon the occasion of the *rejectio*, declaring that the provinces would soon be demanding the abrogation of all laws and penalties for extortion, in the hope that if the prospect of an indictment were removed, Roman governors would plunder only for themselves and not for a host of retainers also.<sup>2</sup> That Verres had not been entirely unsuccessful in his efforts to corrupt the jury is implied by the statement of one of his friends that he had bought one *judex* for 400,000 sesterces, another for 500,000, and the one whose price was lowest for 300,000.<sup>3</sup>

At this juncture the fortunes of the defense seemed to be ebbing, and Verres was considerably downcast.<sup>4</sup> But the resourceful Hortensius was far from being defeated, and immediately put into execution a plan which he had been reserving for this very emergency. The consular elections were to be held in July. Hortensius and Q. Metellus were candidates for the consulship, M. Metellus for the praetorship, Cicero for the office of aedile.<sup>5</sup> If Hortensius and the two Metelli, influential friends of Verres, could be elected, and Cicero defeated, by delaying the trial until the beginning of the next year, the case of Verres would be thrown largely into the hands of his friends and he could easily be acquitted. The first part of the plan was entirely successful. Hortensius and the Metelli were elected by Verres's money.<sup>6</sup> So great was the confidence engendered in the defense by this success that upon the day of the *comitia*,

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<sup>1</sup> Act. I, 40.

<sup>2</sup> Act. I, 41, 42. An excellent example of Cicero's power to give to a specious argument the maximum of effect. The removal of all restraint upon plundering would hardly operate to decrease it.

<sup>3</sup> III, 145.

<sup>4</sup> Act. I, 17.

<sup>5</sup> Act. I, 26.

<sup>6</sup> Act. I, 29.

after the results had been announced, the friends of Verres openly congratulated him as already acquitted by the elevation of his defender to the consulship.<sup>1</sup> Fortune further favored the defense upon the occasion of the lot for the distribution of *provinciae* to the praetors-elect. For to M. Metellus fell the jurisdiction over the court of *Repetundae*.<sup>2</sup> Therefore, if the trial could be postponed until January 1st, he would succeed the just Glabrio as presiding judge.<sup>3</sup> Verres was again receiving congratulations. But the *comitia* for the election of aediles were yet to be held. The Sicilian treasure was freely expended in an effort to defeat Cicero, "ten chests of money" being appropriated for the purpose,<sup>4</sup> and their contents given into the hands of *divisores* or professional bribers for judicious distribution. One of these agents, a certain Q. Verres of the Romilian tribe, undertook to bring about the desired result for 500,000 sesterces.<sup>5</sup> Cicero was well nigh distracted with the multiplicity of duties and dangers which surrounded him.<sup>6</sup> Verres and his son took an active part in the canvass against the candidate they feared.<sup>7</sup> But all their efforts were in vain and Cicero was handsomely elected.<sup>8</sup> Even then further attempts were made to intimidate the Sicilians in Rome. Q. Metellus summoned some of them, pointed out that he was to be consul the next year, that his brother Lucius was even then *propraetor* in Sicily, that his other brother, Marcus, would be presiding over the case of Verres after January 1st, and that therefore they could not expect that the defendant would ever be convicted.<sup>9</sup> Furthermore many of the present jurors would be unable to act after the first of the year. Caesonius had been elected aedile with Cicero and

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<sup>1</sup> Act. I, 18-20.

<sup>2</sup> Act. I, 21.

<sup>3</sup> Act. I, 26.

<sup>4</sup> Act. I, 22.

<sup>5</sup> Act. I, 23.

<sup>6</sup> Act. I, 24.

<sup>7</sup> Act. I, 25.

<sup>8</sup> *Ibid.* ; I, 19.

<sup>9</sup> Act. I, 27-29.

would be obliged to assume his new duties.<sup>1</sup> Manlius and Cornificius had been elected *tribuni plebis*; Sulpicius was to enter upon a magistracy<sup>2</sup> in December; Crepereius, Cassius, and Tremellius were military tribunes-elect; Metellus was the new praetor.<sup>3</sup> The places of all these would be filled by men whom Verres could trust. Nothing could prevent the defendant's acquittal. So great was the confidence inspired by the results of the elections that some further sporadic efforts were made toward bribing the jury already empanelled.<sup>4</sup>

We may suppose that the case against the Achaian governor was decided about July 31st.<sup>5</sup> The 5th of August,<sup>6</sup> 70 B. C., was set as the opening of the long-awaited trial, and the few intervening days were fully occupied by the opposing parties. Now that those of the Verrine faction had succeeded in arranging that the case should fall into their hands after the first of the year, it only remained to carry out successfully the rest of the program—namely, to delay the proceedings as much as possible so that a verdict could not be reached before January. Again circumstances aided their plans. Games and holidays, both those regularly held and specially appointed ones, were approaching. On August 15th, only ten days later, the *Ludi Votivi* of Pompey, celebrating his Spanish victories, were to begin and were to last fifteen days; the *Ludi Romani* began September 4th and lasted nine days; from September 15th to 18th were the *Ludi Romani in Circo*. All this would entail adjournment of court for some forty days. Then it was hoped that the proceedings could be dragged on till the *Ludi Victoriae*, beginning October 25th and lasting five days. The *Ludi Plebei* would come in November. By that time it would be impossible to finish the trial within the year and the case would go over into the

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<sup>1</sup> Act. I, 29.

<sup>2</sup> The quaestorship, according to Schol. Gron., p. 337 (Stangl).

<sup>3</sup> Act. I, 30.

<sup>4</sup> Act. I, 17.

<sup>5</sup> Zielinski (Phil. LII, p. 258, n. 15) concludes from rather insufficient evidence that the defendant was acquitted.

<sup>6</sup> Act. I, 31. *Nonae sunt hodie Sextiles*.



hands of Verres's friends.<sup>1</sup> The regulation of the *Lex Servilia*<sup>2</sup> was still in force, providing for a *comperendinatio*,<sup>3</sup> or adjournment, of one day between the *actio prima* and the *actio secunda*. In view of all the possibilities for delay inherent in these circumstances, it is hardly to be wondered at that Verres and his adherents approached the day of the trial with confidence.

To Cicero the situation presented a serious dilemma. It would take days and weeks to exhaust the rich store of evidence he had gathered and carefully prepared. If he spoke as he had intended to speak, if he made a serious effort to outshine Hortensius in oratorical display, if he conducted the trial upon the usual lines, it was quite possible that the whole case might go over to the next year and be irretrievably lost. It was indeed a bitter alternative which confronted him. But it was an alternative which, while it involved the sacrifice of a wonderful opportunity for brilliant forensic work, yet spelled probable success. Cicero deliberately resolved upon a bold stroke, whose timeliness makes it the most brilliant *coup* in the history of the Verrine indictment. Its brilliance and the staggering surprise which followed upon its execution were in no wise lessened by its utter simplicity. On the 5th of August the court convened at the eighth hour.<sup>4</sup> Cicero, instead of delivering a long speech wholly introductory in character, confounded the opposition by the short, incisive discourse which has come down to us as the *Actio Prima*. In the course of it he briefly reminded the senatorial jurors of the great opportunity given them to remove the prejudice existing against their class.<sup>5</sup> There followed a clear *exposé* of the plot of the opposition to delay the trial until the following year and of the tricks which had already postponed it for months.<sup>6</sup> Then he

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<sup>1</sup> Act. I, 31, 34 ; I, 30, 31.

<sup>2</sup> See p. 166.

<sup>3</sup> Madvig, *Verfassung und Verwaltung* II, p. 326 ff.; Mommsen, *Röm. Strafrecht*, p. 424 ff.; Greenidge, p. 499 ff.

<sup>4</sup> Act. I, 31. The eighth hour after sunrise in early August would be 2:30 P.M.

<sup>5</sup> Act. I, 1-6.

<sup>6</sup> Act. I, 7-32.

sprung his trap. He explained that the necessity for haste had compelled him to abandon any idea of making an elaborate speech, that he would simply produce his witnesses and let them state the facts, relying upon the justice of his case and the eloquence of uncorrupted testimony to be as effective as the most elaborate discourse could be.<sup>1</sup> An eloquent appeal to the jury and the presiding judge<sup>2</sup> followed, and the speech was concluded with a formal statement of the indictment, "I declare that Gaius Verres has not only committed many arbitrary acts, many cruel ones against Roman citizens and the provincials, many wicked acts against gods and men, but in particular that he has taken away forty million sesterces out of Sicily contrary to the laws."<sup>3</sup> The effect was electrical. The defense was taken utterly off its guard. The prosecutor proceeded immediately to the examination of witnesses, and at the end of the first day had produced a profound impression upon the jury and the assembled crowd.<sup>4</sup> For nine days the examination of witnesses proceeded,<sup>5</sup> the hopes of the defense gradually fading, as the incontrovertible testimony of the Sicilians wove the net tighter about the indicted governor. On the third day Verres, pretending illness, withdrew from the court and began to plan how he could avoid making a reply. On the subsequent days, as the examination proceeded, with Hortensius only rarely interrupting the witnesses,<sup>6</sup> it became more and more evident that nothing could save the defendant. In the hour of defeat the great advocate's temper arose. When Cicero reflected obliquely upon him, he retorted that he was not skilled in solving riddles. "No?" replied the pitiless prosecutor, "not even when you have the Sphinx in your house?"<sup>7</sup>—a cutting reference to an ivory statue, the gift of Verres. Cicero even twitted him later with ungratefully abandoning his client in the

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<sup>1</sup> Act. I, 33-37; 53-55; I, 29.

<sup>2</sup> Act. I, 38-52.

<sup>3</sup> Act. I, 56.

<sup>4</sup> I, 20.

<sup>5</sup> I, 156.

<sup>6</sup> I, 71; Ps. Ascon. p. 205 (Stangl).

<sup>7</sup> Plutarch, Cicero, 7.

crisis.<sup>1</sup> Without awaiting the verdict, Verres said farewell to Rome and went into voluntary exile.<sup>2</sup> *In absentia* he was condemned by the court to pay an indemnity, the amount of which is not certain,<sup>3</sup> and to remain in exile for the rest of his life.

Cicero's victory was complete. But he was not to be denied the opportunity to make use of all of the great mass of evidence which he had intended should form the basis of his oratory. The fiction of an *Actio Secunda* made it possible to utilize the fruit of his labors with a result far more lasting than the spoken words could have had. After carefully editing his material, Cicero published the five speeches purporting to have been delivered after the usual *comperendinatio*. The contents of these speeches have been treated in previous chapters and need not be repeated here. Suffice it to say that the device of supposing an *Actio Secunda* was more than justified in the vividness of the atmosphere which surrounds the published speeches. The reader can only with difficulty force himself to the realization that they were never spoken, so successfully has the author counterfeited the actuality. And yet a careful perusal reveals the fact that they are intended not primarily for a jury, but for the great public. As has been repeatedly pointed out, the arguments are often illogical, their arrangement is many times faulty, and their appeal is to prejudice rather than to reason. But Cicero has handed down to the historian a most valuable mass of material which is our chief source of knowledge of the intolerable conditions which obtained in the Roman provinces during the last years of the Republic, the cumulative force of which will be to condemn forever the senatorial oligarchy established by the Sullan constitution. Cicero saw the impending fall of that aristocracy,<sup>4</sup> and one may well suppose that his contribution to

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<sup>1</sup> II, 192.

<sup>2</sup> Ps. Ascon., pp. 205, 225 (Stangl).

<sup>3</sup> Plutarch (Cic. 8) gives the amount as 750,000 drachmae (3,020,000 sesterces) and intimates that Cicero lay under suspicion of being bribed to reduce it to that figure. But the sum mentioned is so ridiculously low as to be entirely improbable. There is no other source of information.

<sup>4</sup> The *Lex Aurelia Judiciaria* was promulgated in August, B.C. 70. It did away with the senatorial monopoly of the courts and divided judicial functions among the three classes of senators, *equites*, and *tribuni aerarii*.

the consummation of reform was the publication of his undelivered speeches. Verres had been only a type. He had stood for the whole corrupt system. It was for more than the condemnation of one man that the orator had striven, and the outcome of the great trial was the death-knell of the power of the Optimates. Cicero's singleness of purpose, his devotion to duty, his skill in foiling the most cunning moves of a determined opposition had borne fruit, and he was well content.

For twenty-seven years the exiled praetor lived in Massilia the quiet life of a connoisseur, surrounded by the remnants of the wonderful treasures he had once possessed. Further than that we know nothing of his life after leaving Rome. This fact shows that it was probably uneventful. If we may believe the tradition, his love of art was, in poetic justice, the cause of his death. In the year 43 B.C. Antony commanded him to surrender some of his beloved Corinthian vases. Verres refused, was forthwith proscribed by the triumvir, and summarily executed.<sup>1</sup> According to Asinius Pollio,<sup>2</sup> the old man, now over seventy, died with great fortitude and before his death had the satisfaction of a sort of vicarious revenge, upon hearing that the man who was responsible for his downfall had already met a similar fate.<sup>3</sup> So an implacable hate was satisfied.

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<sup>1</sup> Pliny, N. H. XXXIV, 6.

<sup>2</sup> Seneca, Suasor. VI, 24.

<sup>3</sup> Lactantius, Instit. II, 4, 37. Cicero had been murdered by emissaries of Antony near Caieta. (Plutarch, Cic. 47).

## APPENDIX.

### CHRONOLOGY OF THE TRIAL OF VERRES. (JANUARY—AUGUST, B.C. 70.)

The difficulties in the way of an absolutely certain chronology of the first part of the year 70 are such as to render a definite statement of all details and dates out of the question. A number of attempts have been made in the past to arrange the material satisfactorily, and it is the purpose of the present writer to present briefly the views advanced by each one who has hitherto essayed the task and to determine, if possible, whether all has been said which can be said, or whether it may be that there is a more satisfactory solution of the problem than any yet advanced. The literature of the subject is as follows :

Zumpt, A. W. Der Criminalprocess der Römischen Republik (Leipzig, 1871), pp. 187-199 ; 487-490.

Zielinski, Th. Philologus LII (1893), pp. 248-259.

Kübler, B. Philologus LIV (1895), pp. 464-473.

Holm, Ad. Geschichte Siciliens, III (Leipzig, 1898), pp. 422-427.

Bardt, C. Hermes XXXIX (1904), pp. 643-648.

Below appear the data which Cicero gives us, upon which any consideration of the problem must be based.

1. The praetor's official year began January first. (Act. I, 30.)
2. The case of Verres first came to trial August fifth. (Act. I, 31.)
3. Cicero was granted an adjournment of 110 days for the collection of evidence in Sicily ; his opponent of the Achaian case received 108 days. (I, 30.)
4. Cicero lost three months through the manipulations of the opposition. (I, 30.)
5. Cicero used only fifty days in his journey through Sicily. (Act. I, 6.)
6. During that journey he was at Agrigentum at a time to which he refers on another occasion as *durissima hieme*, and he states that the farmers gave him their evidence while at the plow, *a stiva \* \* \* \* conloquebantur*. (Cic. pro Scauro, 25.)

7. A certain Laetilius, an emissary of Verres, arrived in Sicily at almost the same time as Cicero (II, 64), bearing letters to Metellus, the new praetor. The attitude of Metellus toward his predecessor suddenly changed; but if Laetilius had not come, "in less than thirty days, Metellus would have counteracted Verres's three years." (II, 140.)

8. At the time Cicero was in Sicily, the quaestors of Verres were still there. (II, 11, 12.)

9. On his return he hastily sailed from Vibo to Velia so as to be present in Rome in time (*ad diem*) to prevent the name of Verres from being dropped from the docket. (II, 99.)

10. The *rejectio judicium* (challenging of prospective jurors) took place after Cicero's return. (I, 17.)

11. The elections were held in July. (Act. I, 17.)

The first attempt at any interpretation of the evidence was made by the scholiast,<sup>1</sup> and it was not successful. He attempted to identify the "three months" (4) which Cicero complains of losing, with the 108 days granted the Achaian prosecutor (3). But as Zumpt shows, 108 days are more than three months, and also Cicero could hardly call the 50 days of his Sicilian journey lost time. Subtracting that from the 108 days leaves 58 days, barely *two* months. So the lost three months must be counted *outside* of the adjournment. The scholiast's explanation is impossible, and has long been regarded as such.

Halm, in his first edition (1867), advanced the theory that at the end of the 108 days' adjournment the prosecutor in the Achaian case failed to appear, and that therefore the case never came to trial, a view now generally abandoned, although it persisted in many editions of the Verrines up to the time of the appearance of Zielinski's work. Its only defender of late years is Holm.

The first critical treatment of the whole subject was that of Zumpt. He took the position that the case of Verres was probably the first to be brought before Glabrio, and that the *postulatio* (application to the praetor), the *divinatio*, and all formalities

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<sup>1</sup> Ps. Ascon. on Act. I, 6; p. 207 (Stangl.)

incident to the admission of a case to the docket were concluded by January 10th. On that day Cicero was granted the adjournment he had requested, and the next day he started for Sicily, landing at Lilybaeum about February 1st. (7) also points to this date. On the 111th day, May 6th, he appeared before Glabrio, but as the Achaian case had come to trial the day before, the case of Verres had to be adjourned until after the other one was decided. The Achaian case dragged on through May, June, and July, these being the three lost months (4).

Zielinski takes the position that Cicero's Sicilian journey occupied the *latter* part of his allotted 110 days. In support of this theory, he cites Cicero's statement that he hurried from Vibo to Velia in order to be at Rome *ad diem*, this being, Zielinski thinks, the 111th day. Furthermore, he attempts to show that Cicero was compelled to stay in Rome for 60 days after the indictment was brought in, because the *Lex Acilia* provided that on the 60th day the defendant must choose 50 *judices* out of the 100 names which had been provided by the prosecutor on the 20th day. "This would necessitate Cicero's presence, and thus it was not until the 61st day that he was at liberty to proceed to Sicily. The fact that the Achaian case had meanwhile intervened, would have no effect upon the procedure of the first case. The *sortitio* and *rejectio* were carried out, even in face of the fact that the Achaian case, in view of its shorter adjournment, was sure to come to trial first. This would necessitate the dismissal of the jury secured by the first *sortitio*, and indicates a second *sortitio* and *rejectio* after Cicero's return in May. Until March 15th, then, Cicero was in Rome, preparing for the Sicilian journey and attending upon the court formalities enjoined by the *Lex Acilia*." In support of his hypothesis, Zielinski arbitrarily emends *rediit*<sup>1</sup> (Act. I, 16) to *redii*, changing the reference from Verres to Cicero; he interprets *durissima hieme* (6) as referring to stormy weather and not to the season; and dismisses *minus XXX diebus* (7) as pure hyperbole. He agrees with Zumpt that the Achaian case occupied the three months of May, June, and July.

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<sup>1</sup> *Ut primum e provincia rediit.*

But Kübler points out what Zielinski forgets, namely that it is very improbable that the *Lex Acilia* had been left entirely unchanged by Sulla, because we know of two new laws defining the composition of the courts, which had been passed between the time of the original *Lex Acilia* and that of the trial of Verres, namely the *Lex Servilia* and the *Lex Cornelia* (I, 26). The *Lex Acilia* provided for a tribunal of *equites*: Verres was tried by senators. The old law provided a cumbersome and unwieldy jury of 50 men, the selection of whom might well consume 60 days; but the later law simply provided the rejection of six men at most by each side out of a single *decuria* of senators, consisting of 30 or 40, a procedure which could easily be carried out in one day. Kübler utterly demolishes Zielinski's theory of a second *sortitio* and *rejectio*, pointing out the improbability that the court would proceed in February with the empanelling of a jury which it was perfectly evident would never be able to sit on the case, because of the precedence of the Achaian case. The *sortitio* was simply postponed until after the Achaian case came to trial. The Acilian Law itself provides that a jury, once empanelled, shall remain unchanged throughout the course of a case.<sup>1</sup> Nothing prevented Cicero then, from leaving for Sicily immediately after the granting of the adjournment in January. Kübler believes (with Halm and Zumpt) that he did so, arguing from *minus XXX diebus* (7) that if Metellus went to Sicily in the beginning of January (as he must have done), then Cicero landed early in February. To regard Cicero's statement as pure hyperbole is over-bold. To dismiss *durissima hieme* as a reference to the weather is impossible. Kübler shows that Cicero only uses *hiems* in the sense of *storm* in reference to journeys by sea. The reference to plowing (6) would indicate January or February. Also it is hardly probable that the quaestors of Verres, who we know were still in Sicily when Cicero arrived (8), should have remained there three months after their chief's

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<sup>1</sup> *Eisdem iudices unius rei in perpetuum sient.* (*Lex Acilia*, § 27; Bruns, Fontes, p. 64).



departure. Cicero's statement that he had to be back in Rome *ad diem* does not refer to the 111th day, but to some intermediate terminus about which we know nothing further. Kübler does not discuss the question whether the Achaian case actually came to trial.

Holm agrees that Zielinski's theory of a second *sortitio* needs only to be stated to be rejected. The emendation of *rediit* to *redii* is entirely unjustifiable: *ex provincia rediit* would be the usual way of referring to a returning praetor, but not to a prosecutor who had been gathering evidence in a province over which he had no jurisdiction. (Cf. I, 17, *ut primum ex Sicilia redii*.) Holm returns to the scholiast's impossible explanation of *menses tres*, and follows Halm in the belief that the Achaian case never was tried, because he believes that the prosecutor in that case failed to appear. After the dismissal of the matter early in June, the postponed *sortitio* for the Verrine jury was held, 60 days being allowed (by the old *Lex Acilia*) for its empanelling. This would bring the opening of the trial early in August, as was actually the case. Holm believes that *durissima hieme* is highly figurative, as is the reference to the plow (6). "At the plow" simply means "at work." He places Cicero's Sicilian journey somewhere in the period of February 18th to June 5th.

The latest treatment is that of Bardt, who unjustly accuses Kübler of making the casual reference to *durissima hieme* (6) the basis of his whole chronology. Kübler, however, has much more than that single reference to stand upon. Bardt cites the confusion in the calendar previous to the Julian reformation of it, to show<sup>1</sup> that the first of March of the year 70 really fell within February, and that a raw March day<sup>2</sup> in Agrigentum would amply explain *durissima hieme*. He supports Zielinski in regarding *minus XXX diebus* as purely rhetorical, and agrees

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<sup>1</sup> Matzat, Röm. Chron. I, 71.

<sup>2</sup> Professor Charles E. Bennett informs me that he distinctly remembers the fact of a snowfall in Sicily in early March, 1905, having been in Italy at the time.

with Zumpt's chronology in the main, though for reasons other than Zumpt's, placing the Sicilian journey between March 5th and April 24th, and the trial of the Achaian case in May and June. Cicero's lost *menses tres* (4), by a rhetorical stretch of the imagination, include also July, the month of the elections, during which court procedure was probably arrested.

The following arrangement in parallel columns of the chronology as detailed by each of the five commentators, will serve to show the reader at a glance in what respects they differ and in what they agree. (See pages 198-201.)

It will be observed that Zumpt and Kübler place the Sicilian journey in the first part of the 110 days' adjournment; Zielinski, Holm, and Bardt in the latter part: Zielinski is unsupported in his theory of a second *sortitio*, and Holm alone still believes that the Achaian case never came to trial, though on this last question Kübler is silent. With the exception of Holm, there is unanimity in placing the beginning of the trial, including the *Divinatio* and granting of the adjournment, in the first half of January. Holm is forced to place it later (an improbable supposition), because he is unwilling to explain the loss of time later on by the trial of the Achaian case.

All possible contingencies would seem to be covered by the five different arrangements, but some further discussion of the subject may still prove profitable. It is evident that the moment Zielinski's theory of the second *sortitio* is disposed of, the chief prop of the belief that Cicero's Sicilian journey was in the latter part of his 110 days is gone. One cannot but agree that Kübler, followed by Holm, leaves nothing for Zielinski to stand on. On the other hand, the cumulative effect of (6), (7), and (8), as demonstrated by Kübler, is so great as to swing the balance decidedly in favor of his advocacy of the theory of Halm and Zumpt, namely that Cicero proceeded to Sicily immediately upon the granting of the adjournment. It is exactly what we should expect the prosecutor to do. He had no means of knowing how many of his allotted 110 days he would need. It would have been dangerous to postpone the execution of the very purpose

ZUMPT (1871)	ZIELINSKI (1893)	KÜBLER (1895)	HOLM (1898)	BARDT (1904)
JANUARY	JANUARY	JANUARY	JANUARY	JANUARY
1-10 Postulatio, divinatio, nominis delatio, inscriptio, interrogatio.		1-11 Postulatio, divinatio.		
10 Adjournment of 110 days.	10 Postulatio.			10 Postulatio; 110 days' adjournment granted.
11 Cicero starts for Sicily. Divinatio; adjournment of 108 days granted in Achaian case.	11 Divinatio; adjournment of 110 days granted Cicero.			11 Achaian case brought; 108 days' adjournment granted.
	12 Achaian case brought, and 108 days' adjournment granted.	12 Adjournment of 110 days granted Cicero; he leaves for Sicily.	15 (circ.) Postulatio.	
	21 Naming of ineligible jurors by Verres.		Empanelling of jury for divinatio.	

ZUMPT	ZIELINSKI	KÜBLER	HOLM	BARDT
FEBRUARY	FEBRUARY	FEBRUARY	FEBRUARY	FEBRUARY
1 (circ.) Cicero arrives in Sicily.	2 First sortitio. Cicero in Rome, preparing material for the trial.	Cicero arrives in Sicily. Cicero in Sicily.	Adjournment of 110 days granted Cicero; adjournment of 108 days granted Achaian case.	
Cicero in Sicily.				
MARCH	MARCH	MARCH	MARCH	MARCH
2 Cicero returns from Sicily.	14 First rejectio judicium. 15 Cicero starts for Sicily.	3 (circ.) Cicero returns from Sicily.	*21 (circ.) Cicero starts for Sicily.	5 Cicero leaves for Sicily, 10 Cicero in Agrigentum ( <i>durissima hieme</i> ).

\*Holm puts the Sicilian journey "between Feb. 18 and June 5." I have placed it in the middle 50 days of this period.

ZUMPT	ZIELINSKI	KÜBLER	HOLM	BARDT
APRIL	APRIL	APRIL	APRIL	APRIL
Cicero in Rome.	Cicero in Sicily.	Cicero in Rome.	Cicero in Sicily.	Cicero in Sicily.
<sup>29</sup> Last day of 108 days' adjournment.				<sup>23</sup> Last day of 108 days' adjournment; jury empanelled for Achaian case.
<sup>30</sup> Last day of 110 days' adjournment; Achaian case called.				<sup>24</sup> Last day of 110 days' adjournment; Cicero returns.
MAY	MAY	MAY	MAY	MAY
	<sup>4</sup> Return of Cicero; Achaian case called. Jury empanelled March 14 is dismissed. Verres plans to bribe the new jury.			Achaian case on trial.
<sup>6</sup> Postponement by praetor of case of Verres until decision of Achaian case. Achaian case proceeds.	<sup>5</sup> Praetor adjourns case of Verres until decision of Achaian case.	<sup>5</sup> Last day of 110 days' adjournment.		
			<sup>10</sup> (circ.) Cicero returns.	
	Second sortitio.			

ZUMPT	ZIELINSKI	KÜBLER	HOLM	BARDT
JUNE	JUNE	JUNE	JUNE	JUNE
Achaian case on trial.	Second rejectio judicium; jury thus constituted found not susceptible of bribery; Achaian case continues.		<sup>5</sup> Achaian case called and prosecutor fails to appear; case is dismissed; 60 days granted for empanelling of jury for case of Verres.	Achaian case on trial.
JULY	JULY	JULY	JULY	Achaian case decided.
Elections.	Elections.	Elections.	Elections.	Jury empanelled for case of Verres.
<sup>37</sup> (circ.) Achaian case decided.	Verres hopes to delay trial until following year. Achaian case decided. (Defendant acquitted.			Elections.
AUGUST	AUGUST	AUGUST	AUGUST	AUGUST
<sup>5</sup> Case of Verres called.	<sup>5</sup> Case of Verres called.	<sup>5</sup> Case of Verres called.	<sup>5</sup> Case of Verres called.	<sup>5</sup> Case of Verres called.

for which he asked the adjournment until the end of the period. It would be entirely conceivable that his estimate of the time to be required might be too low, that he would therefore be hurried in the gathering of evidence or forced to leave it incomplete, and that some unforeseen contingency might make it impossible to reach Rome on the 110th day, in which case the whole action against Verres would have been dismissed. The opportunity was too extraordinary to warrant Cicero in running any such risk of losing it. In the course of the Verrines he speaks repeatedly of the fact that he was afforded every facility for investigation by the Sicilians. This would tend to explain the discrepancy between the length of time he asked of the court and that which he actually used. He was enabled to finish the work of investigation in a shorter time than he had anticipated, and his pride in the fact is unmistakable (Act. I, 6). Bardt's explanation that during the latter part of January and all of February Cicero was engaged in promoting his candidacy for the aedileship seems very weak. The elections were not held until July. The effect of such early campaigning would be largely lost. How much more probable that he went to Sicily first, returned early in March, and had the remainder of the time until the elections free for the preparation of his brief and the acquisition of electoral support!

The only consideration which seems to militate against this conclusion is (9), the hasty journey from Vibo to Velia, in order to be in Rome *ad diem*. This Zielinski makes much of, insisting that the *diem* was necessarily the 111th day. The hypothesis has a look of probability, and if there were no other evidence, we might be forced to the conclusion that this must mean that Cicero used the last 50 days of the 110 for his journey in Sicily. But the evidence on the other side is so much stronger that we can only agree with Kübler in confessing ignorance in this instance. It is far from impossible that subsequent to Cicero's departure, Verres and his cohorts of legal lights had succeeded in securing some intermediate terminus at which Cicero was compelled to be in Rome. We know too little of the details of

Roman court procedure to be able to say that such a thing was even improbable. The single passage, in face of all those against it, is far from proving that Cicero used the latter part of his 110 days.

As to the Achaian case, the evidence is overwhelmingly against Holm in his attempt to revive the old theory that the case was never tried. Upon that theory it is entirely impossible to account satisfactorily for the lost *menses tres*. All that Holm adduces against an actual trial is the impossibility of bribing a jury of fifty senators to sit on a fictitious case for three months. But Kübler shows that the number of jurors was nearer 25 than 50, and it is impossible to show that the case was a purely fictitious one. It was greatly to the advantage of Verres that such a case was so opportunely ready to be brought, with at least some show of sincerity. Asking for an adjournment two days shorter than Cicero's, in order to secure precedence on the docket, was of course a bit of legal *finesse*. Cicero's statement (Act. I, 6) that the Achaian prosecutor never even went as far as Brundisium would seem to indicate a lack of thoroughness in the conduct of the case.<sup>1</sup> But it would be easy enough for skilful lawyers,

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<sup>1</sup> Ciccotti, op. cit., (p. 155) states without authority that the anonymous Achaian prosecutor never even left Rome. Cicero's claim that he never even reached Brundisium may be strongly rhetorical in itself, and it is certainly unnecessary to go to further lengths, particularly when such a statement as Ciccotti's is wholly unsubstantiated by the evidence.

Ciccotti's whole treatment of the chronology of the trial is uncritical and therefore unsatisfactory. He makes no particular effort to sift the evidence or to correlate the facts with each other so as to form a connected whole. This is for the most part true of his whole work. It is decidedly uneven, making no pretense to cover the complete history of the case, and the selection of topics to be treated seems to be governed more by the author's arbitrary caprice than by any well defined plan. He practically ignores the *De Signis*. Some topics are treated twice in different places, e.g. pp. 84 and 195, pp. 94 and 196, pp. 70 and 208, pp. 137 and 228.

He agrees with other commentators in placing the beginning of the trial some time in January (p. 152), and he correctly regards the lost *menses tres* as being immediately prior to August fifth, the date of the trial's opening. He is decidedly unclear upon the period between January and May, almost entirely avoiding the question as to which part of the 110 days' adjournment



versed in legal technicalities, to drag out a case for three months, and that they did so, seems very probable.

The beginning of the case of Verres, I should place slightly later in January than Zumpt, Zielinski, Kübler, and Bardt, though not so late as Holm. The *Divinatio* could hardly be concluded before January 15th, allowing for difficulties in selecting the jury. Cicero's arrival in Sicily would occur toward the end of the month. I should arrange the course of the trial as follows, all dates except August 5th being approximate :

January 5th to 10th—*Postulatio, nominis delatio, nominis receptio*.

January 15th—*Divinatio*.

January 16th—Adjournment for 110 days.

January 17th—Achaian case brought ; adjourned for 108 days; Cicero leaves for Sicily.

January 31st—Cicero arrives in Sicily.

March 8th—Cicero returns to Rome.

March 15th—Verres attempts to bribe Cicero.

May 5th—Adjournment of 108 days ends, and the Achaian case is called.

May 6th—Adjournment of 110 days ends ; the case of Verres is further postponed until a verdict is returned in the Achaian case.

June 1st—*Sortitio*.

June 30th—*Rejectio judicium*.

July—Elections.

July 31st—Achaian case decided.

August 5th—Case of Verres is called.

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was consumed in the 50 days' journey to Sicily, by the statement (p. 161) that Cicero may have remained in Rome for a while before going to Sicily, or else may have remained in Sicily a while after his investigation was concluded, because his witnesses were impeded by Metellus. Yet (p. 152) he states that something came up to hasten the prosecutor's return to Rome, and (p. 162) places the return at the end of April. This latter statement would seem to indicate that he believes the Sicilian journey took place in the latter half of the adjournment. This theory, as advocated later by Zielinski, has been shown to be untenable. (See p. 197.)

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